




Canada. Royal commission on
transportation

Evidence. vol. 43-45. 1949

1951



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ROYAL COMMISSION
ON
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EVIDENCE HEARD ON

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ROYAL COMMISSION ON TRANSPORTATION

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,

FRIDAY, NOVEMBER 11th, 1949.

THE HONOURABLE W.F.A.TURGEON, K.C. LL.D. - CHAIRMAN
HAROLD ADAMS INNIS - - - COMMISSIONER
HENRY FORBES ANGUS - - - COMMISSIONER

- - - - -

G. R. Hunter, Secretary. P. L. Belcourt, Asst. Secretary.

- - - - -

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C. W. Brazier)	Province of British Columbia
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M. L. Rapoport		
R. Kerr)	Board of Transport Commissioners

ROYAL COMMISSION ON TRANSPORTATION

Ottawa, Ontario,

Friday, November 11, 1949.

MORNING SESSION

MR. O'DONNELL: May it please the Board, yesterday morning I promised to get the reference of a case before Mr. Justice Kerwin in the Supreme Court. It will be found in 60 Canadian Railway & Transport Cases at page 255 in "Re 30% General Increase in Tolls and Freight Rates". Mr. Justice Kerwin on the 15th February 1947 expressed himself in a judgment concerning the motion for leave to appeal from an order of the Board of Transport Commissioners which is reported in the same volume at page 250. The Judgment is very short, my lord, and it might be a matter of convenience to put in on the record:

"Kerwin J.:— This is a motion under s.52 of the Railway Act for leave to appeal from the Board of Transport Commissioners to the Supreme Court of Canada upon a question of jurisdiction. The question of jurisdiction is raised in connection with an application made by the Railway Association of Canada on behalf of its member companies, and the point taken is that the Board has no jurisdiction to permit a flat horizontal increase in the tariffs. Notwithstanding the argument advanced on behalf of the petitioners on this motion, I have come to the conclusion that in the wording used in a number of cases, only one of which I refer to, C.N.R. v. C.P.R., 36 C.R.C. 76 at pp. 79-80, (1929) S.C.R.135 at p.139, this is not a proper case for leave because I entertain no doubt that no arguable objection to the jurisdiction of the

Board has been advanced. I am satisfied that under s.33 of the Act taken by itself, but particularly when taken in conjunction with s.325 of the Act, jurisdiction does reside in the Board to hear the application made to it by the Railway Association of Canada. The matter does not lend itself to extended discussion and I thought it preferable, in view of the importance of the matter, that I should express the conclusion at which I have arrived - in my own mind quite clearly - so that all who are engaged in the matter before the Board may hear it as soon as possible. The motion is therefore dismissed."

And the judgment from which the leave to appeal was sought to be taken will be found just a few pages further on where the Chief Commissioner discussed the question of horizontal increases and the right of the Board to hear them, and pointed out that in that case it was not the first occasion on which an application for percentage increase on freight rates had been before the Board, and the Chief Commissioner listed the various percentage ^{increase} /cases and pointed out that there had also been percentage reduction cases, and then went on to say:

"Though the Railway Act does not specifically state that the Board has authority to grant percentage increases or decreases in rates, its statutory power under the Act to deal with matters such as are now before us are so wide that special authorization would not seem necessary. The realistic and practical manner of dealing with the matter, it seems to me, is the course which has been followed by the railways." And then he went on. Just one other thing, my lord.

Just one other thing, my lord.

And then he went on. Just one other thing, my lord. Before we get too far away from the testimony given by Senator Fogo it may be well just to point out that when the Algoma Steel Corporation suggests that the matter of increases on iron and steel be handled as set out in Ex-Parte 162 in the application to the Interstate Commerce Commission, that subsequent to the Ex-Parte 162 case there were two other later judgments entered by the Interstate Commerce Commission which are Ex-Parte 166 where an interim percentage increase was granted on the 29th December 1948 without any limitation or maxima concerning iron and steel and that that increase was varied from six to four in various territories in accordance with the division that they have in the United States, and that subsequently the interim increase was made permanent by an additional increase of 4%, so that the general percentage increase concerning iron and steel became 9, 10 or 8 depending upon the zone the shipment was being made to.

In Ex-Parte 162 it might also be noticed that it was the railways themselves who did it in that case, asked for a maxima on iron and steel products, and that the Board there stated that the maxima suggested by them was not adequate. I have reference there to the judgment which is reported in 266 Interstate Commerce Commission beginning at page 537 and at page 588 under the heading "Iron and Steel", the Interstate Commerce Commission pointed out that the petitioners, that is the railway, proposed to increase the rate on these commodities 25% subject to a maxima of 4¢ per hundred pounds or .80¢ per net or gross ton, as rated, and subject to the provisos and so on. And on pages 589 the Interstate Commerce Commission says

with respect to that particular application:

"Clearly the average increase in these iron and steel commodities should and must be more than 10% if the revenues going to the carriers are to be met without placing an undue burden on that traffic".

And though he did not grant the application of the railway, he increased the maxima further by two and a half times, and granted a 20% increase subject to a maxima of 10¢ per ton and not to exceed \$2.00 per ton net or gross as rated, the railways having asked for a maxima of four. I thought it might be well to have this in the record at this point.

MR. DESMARAIS: The first application this morning, Mr. Chairman, is that of the City of Quebec and the Chamber of Commerce of Quebec City. Mr. Frank Power is counsel for the City of Quebec.

- - - - -

MR. FRANK POWER CALLED

EXAMINED BY MR. DESMARAIS

Q. The brief will be taken as read, Mr. Chairman, but I understand that Mr. Power has some corrections to make in the brief. Have you?

A. Yes. On page 22, line 2, I wish to delete "For export". It says "At the grain elevator". I wish to delete the words "For export". At page 30, the last paragraph, I wish to amend it to read as follows:

"It is therefore recommended that a thorough investigation of the particular circumstances surrounding the establishment of such rates (such rates as established by General Order 448) be undertaken with a view to implementing sections 42 to 45 inclusive of the National Transcontinental Railway Act."

THE CHAIRMAN: You say "It is therefore recommended

that a thorough investigation - ", of what?

A. Of the particular circumstances surrounding the establishment of such rates (such rates being those as granted under General Order 448 by the Board of Transport Commissioners or Board of Railway Commissioners as they were then) being undertaken with a view to implementing Sections 42 to 45 inclusive of the National Transcontinental Railway Act.

Q. What year was that Act?

A. 3 Edward VII Chapter 71.

Q. What year?

A. 1903.

COMMISSIONER INNIS: The rest of this is to come out then?

A. It is to be amended to read as I stated.

THE CHAIRMAN: The last three lines are they being struck out?

A. In the first line of the paragraph I strike out " - the rate of 18.34¢ as established by the above mentioned Order 448 of the Board of Railway Commissioners for Canada remain in effect until such time as - ".

That is all struck out and then the last line of the last paragraph " - be undertaken by such investigation - " is struck out also.

Also on page 34, the second to the last paragraph to be deleted entirely. It reads "It is recommended, therefore, in view of the facts outlined above that the railways be instructed to conclude on an equitable basis of the questions at issue with the City of Quebec". We withdraw that because we realize that this Commission has no powers in that regard.

(Page 8180 follows)

and District of Quebec.

That these handicaps have, to a large extent, been artificially created does not lessen the burden under which the population of this section of Canada labors.

This brief is directed towards the restoration of certain priorities in trade and commerce in territories adjacent to and normally tributary to the City of Quebec, of which priorities the citizens of this section believe themselves to have been deprived.

It is also directed towards the preservation and implementation of those statutory and contractual rights which the City of Quebec has acquired in the past.

In particular, the submissions contained in this brief have as their object:

(1) THE AMENDMENT OF THE MARITIME FREIGHT RATES ACT SO AS TO INCLUDE THE CITY OF QUEBEC IN THE "SELECT" AREA;

(2) THE AMELIORATION OF THE UNSATISFACTORY AND DISADVANTAGEOUS SITUATION AS REGARDS MARITIME TRANSPORTATION IN WHICH THE PORT OF QUEBEC FINDS ITSELF UNDER THE EXISTING ADMINISTRATION OF THE NATIONAL HARBOURS BOARD AND THE PROVISIONS OF THE NATIONAL HARBOURS ACT;

(3) THE PRESERVATION OF THE STATUTORY PREFERENTIAL RATE ON THE SHIPMENT OF GRAIN AND OTHER PRODUCTS FROM THE PRAIRIE PROVINCES TO QUEBEC OVER THE NATIONAL TRANSCONTINENTAL RAILWAY.

II. History

The City of Quebec has a long history of cycles of prosperity followed by depressions, some undoubtedly arising out of its location as one of the important centres of North America. It is not proposed herein to make any special claims on account of the historic

importance of the City.

In the earlier days of the French regime, and later, Quebec was a political and economic centre of Canada and of a large portion of the territory west of the Ottawa River and extending into the Valley of the Mississippi. The fur trade originally centred here, but owing to the natural advantages of Montreal, located as it was at the confluence of the Ottawa River and the Great Lakes system of inland navigation, this trade was absorbed by the City of Montreal.

Next in historic sequence came the timber trade, and with it the wooden shipbuilding. For a number of years these together made of Quebec the principal seaport of Canada and one of the most important in America. Its maritime trade was so great that in some years as many as 2,000 ocean-going vessels arrived in one season. The merchants of the district devoted themselves almost exclusively to the export of timber and lumber, which at that time was the great article of Canadian export. Besides, upwards of 5,000 persons were employed in the building of wooden ships, and to the shipyards of Quebec should go the credit of building the first steam-driven vessel which crossed the Atlantic.

When the timber trade languished almost to the point of extinction, and the use of wooden shipping ceased owing to its substitution by iron and steel, Quebec might have retained its important position in commerce and shipping had it not been that almost simultaneously the dredging of the St. Lawrence Ship Channel between Quebec and Montreal was begun as a work undertaken by the Montreal Commissioners. This project of deepening the River St. Lawrence so as to make the port of Montreal available to larger vessels, which had hitherto made

Quebec their principal port of call, was afterwards taken over by the Government of Canada, and the heavy expenditure involved therein paid for by the taxpayers of the country generally.

This artificial encouragement of one seaport at the expense of another has never ceased to arouse serious resentment in the minds of our population. The effect was to take away from Quebec a very large portion of the Maritime trade which had hitherto been its most important economic support, and this was followed by the disappearance from our city of locally founded and constituted banking and financial institutions and the almost complete control and management of shipping from the City of Montreal.

The hopes of the Quebec trading community were next turned toward the achievement of an important position in the then rapidly growing grain trade of Canada. They were encouraged in these hopes by the fact that in 1903 the Government of Canada adopted as its own, and as a part of its national transportation policy the plans and projects of an important group of Quebec business men who had come together and under the name of the Trans-Canada Railway proposed to build a railway line over the shortest possible distance from the prairies to the Atlantic seaboard in order to provide for the cheap carriage of grain between these points.

The Trans-Canada Railway project was taken over by the Government and Sir Wilfrid Laurier in 1903, alarmed at the diversion of a large portion of the grain traffic of the western provinces to the United States seaports for export, recommended to Parliament the construction of another railway across the continent north of the Canadian Pacific. This railway was authorized and completed some ten years afterwards.

The people of Quebec, whose representative in Parliament for over a third of a century was Sir Wilfrid Laurier, rightly or wrongly were led to believe that with the terminus of a national transcontinental railway 214 miles shorter between Winnipeg and Quebec than was any other railway between Winnipeg and Montreal, its lagging commercial activity would be revived based on the grain export trade.

Though, after a great deal of agitation and persevering representations to the authorities, favourable rates on grain were established, for some reason or other Quebec has not become an important grain shipping centre.

In spite of these setbacks in fur, shipbuilding, timber and grain and overseas shipping there still remained tributary to the City of Quebec two extensive hinterlands - that region north of the City of Quebec and extending to the Saguenay River and Lake St. John, rich in minerals and timber, which was to attain a great development owing to the expansion of the power, pulp and paper industries, and to the establishment in the district, owing to its power potentialities, of a great aluminium industry. With a view to opening up this region and centering its economic development on Quebec, a group of citizens financed and built a railway to Lake St. John and the Saguenay. The Corporation of the City of Quebec subscribed and paid for \$650,000 of the stock of Quebec and Lake St. John Railway. This railway, after having been taken over by the Canadian National Railways, was diverted from its original purpose of bringing traffic to Quebec by means of a cut-off which gave direct access for the products of this region to the City of Montreal, and deprived Quebec of the benefits of the export and import trade to and from this wealthy section of the Province of Quebec.

The other section of territory in which the Quebec trading community has traditionally filled a prominent position was that lying between the City of Levis and the Gaspé Peninsula. In former times goods and merchandise were largely water-borne down the St. Lawrence by schooner to the outports situated on the north and south shores of the St. Lawrence River and the Gaspé Peninsula. With the building of the Intercolonial Railway Quebec trade was carried on by railway to a radius of within 250 to 300 miles of the city, approximately the New Brunswick border, and the Counties of Bonaventure and Gaspé. The legislation known as the Maritime Freight Rates Act placed a serious, and almost insurmountable, obstacle in the way of the maintenance and further development of this trade by making the terminus of the so-called "Select territory" the railway station known as "Diamond Junction" and excluding the City of Quebec from the "select territory".

MARITIME FREIGHT RATES ACT

Origin

The Statute of Canada known as the "Maritime Freight Rates Act", Chapter 79, 1927, R.S.C., was enacted as the result of one of the recommendations made by the Royal Commission on Maritime Claims. This Royal Commission was established by Order-in-Council P.C. 505, dated the 7th of April, 1926, to look into and report upon circumstances and conditions which were the bases of representations made to the Federal Government by the various governments, boards of trade and other public bodies of the Maritime Provinces. The Royal Commission, commonly known as the Duncan Commission after its Chairman, Sir Andrew Rae Duncan, after having held public sessions throughout the Maritimes, as well as Montreal,

rendered its report on the 20th of December 1926.

The questions dealt with were:

- (1) Money grants to provinces;
- (2) Transportation and freight rates;
- (3) Port development and export trade;
- (4) Trade policy - forest products, fisheries, coal, steel;
- (5) Agricultural and immigration, etc.

That with which we are concerned is their investigation into transportation and freight rates in the Maritime Provinces. They found, to summarize briefly, that the Maritime Provinces were faced with a serious economic disadvantage, vis-a-vis the rest of the Dominion of Canada, because of the fact that the Intercolonial Railway was not built or capable of operation on an economical or commercial basis.

The Commission, in reviewing the history of the Intercolonial Railway, made the following observation:

"The construction of the Intercolonial Railway was an obligation placed upon the Dominion Government by Section 145 of the British North America Act 1867, which reads as follows:

'Inasmuch as the Provinces of Canada, Nova Scotia and New Brunswick have joined in a Declaration that the construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the duty of the Government and Parliament of Canada to provide

for the commencement within six months after the Union, of a railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.'

"It is unnecessary to pursue the arguments in detail. From some angles it could, no doubt, be urged that the construction of the railway was as much a concession to the demands of the Maritime Provinces as an inducement held out by the other provinces to make Confederation more attractive to the Maritimes. We think, however, that a balanced study of the events and pronouncements prior to Confederation, and at its consummation, confirms the representations submitted to us on behalf of the Maritime Governments in regard to the ultimate construction of the railway, viz:

- (a) That leading Canadian statesmen in urging the adherence of the Maritime Provinces to Confederation defined the purposes of the railroad to be
 - (1) A means of affording to Canadian merchandise, and to Canada herself, in times of national and imperial need, an outlet and inlet on the Atlantic ocean - available all the year round - and
 - (ii) To afford to Maritime merchants, traders and manufacturers, a market of several millions of people instead of their being restricted to the small and scattered populations of the Maritimes themselves, particularly in the light of the

disturbance with which their trade was threatened as the result of the discontinuance by the United States of the reciprocal arrangements that had prevailed.

- (b) That strategic considerations determined the actual course of the line - making it many miles (estimated by Sir Sanford Fleming at 250 miles) longer than was necessary - if the only consideration had been 'to connect the cities of the Maritime Provinces with those of the St. Lawrence'.
- (c) That to the extent that commercial considerations were subordinate to national, imperial and strategic considerations, the cost would be borne by the Dominion and not by the traffic that might pass over the line."

Having reviewed the history of the Intercolonial Railway the Commission went on to discuss the rates which had existed on that railway until 1912. They found that a lower level of rates commensurate with the needs and requirements of maritime trade were in effect. However, they found that, as a result of the great war and the consequent economic activity, these rates were increased at the same time as all other rates in the railway structure. While these increases did not, during the war or immediately after, materially affect the economy of the Maritimes due to the artificial stimulation in trade and commerce given by the war, they found that, with the cessation of this inflationary activity and the general return to normal commerce and economic activity, that the Maritimes found themselves in a position where they were unable to compete in the central Canadian market, and were rapidly falling into a state of extreme depression. Upon particularly examining into the increases in

the rate structure throughout Canada in the period 1912 to 1926, the Commission found that in order that a more equitable basis of competition might be established a general freight reduction of 20% should be applied to the Maritime Provinces and certain portions of the Province of Quebec, and recommended a freight differential to be paid by the Central Government.

"We recommend, therefore, that an immediate reduction of 20 per cent (so that 192 will become approximately 155) be made on all rates charged on traffic which both originates and terminates at stations in the Atlantic Division of the Canadian National Railways (including export and import traffic, by sea, from and to that division), and that the same reduction be also applied to the Atlantic Division proportion of the through rates on all traffic which originates at stations in the Atlantic Division (excluding import traffic by sea), and is destined to points outside the Atlantic Division.

"For this purpose, we cannot regard the Atlantic Division as ending at Riviere du Loup and Monk, which are its present western limits. The divisional points should, in our view, be Diamond Junction and Levis, Diamond Junction being the point at which the Transcontinental Railway meets the old Intercolonial Railway, and Levis the point to which in 1879 the Intercolonial Railway was extended."

These recommendations were implemented in the Maritime Freight Rates Act, Chap. 79, 1927, R.S.C.

EFFECT OF THE MARITIME FREIGHT RATES
ACT ON THE CITY OF QUEBEC

By Section 4, traffic moving outward, westbound, from points on the eastern line (or in the "select

territory") beyond the limit of the eastern line at Diamond Junction, was subjected to a 20% reduction in the rate based on the eastern lines proportion of the through rate. With respect to traffic moving east-bound, all rail, from points not on the eastern lines to points on the eastern lines, there was no reductions made in the rates. The section of the Act which seems particularly unfair and discriminatory to Quebec is Section 2, in which the term "eastern lines" is defined:

"For the purposes of this Act the lines of railway now operated as a part of the Canadian National Railways and situated within the Provinces of New Brunswick, Nova Scotia and Prince Edward Island (now also Newfoundland) and the lines of railway, similarly operated, in the Province of Quebec extending from the southern provincial boundary near Matapedia and near Courchesne to Diamond Junction and Levis are collectively designated as the Eastern Lines."

The reaction of this rather arbitrary separation and discrimination within the Port of Quebec raised a storm of protest among the merchants and others closely affected. These representations and protestations were so vigorous that on the 6th of June, 1930, P.C. 1291 was passed to deal with the situation. It reads as follows:

"The Committee of the Privy Council have had before them a Report, dated 4th June, 1930, from the Minister of Railways and Canals, representing that Petitions have been received from delegations representing the Municipal Council, the Board of Trade, the local branches or sections of the Canadian Manufacturers', Builders', Retail

Merchants', Commercial Travellers', Grain and Provision Merchants' Associations, the Wholesale Grocers' Guild, the International Trade and Labour Union, and the Catholic Trade and Labour Union, of the City of Quebec, setting out that prior to the enactment by the Parliament of Canada of the Maritime Freight Rates Act, 1927, (Chap. 44 of the Statutes of Canada of that year), Quebec and Levis, situated as they are on the same harbour, had the same schedule of freight rates on traffic moving between these two cities and the Maritime Provinces; that by the said Act, Levis was included in, but Quebec excluded from, the "select territory", created by the Act with the result that while reductions have been made in the freight rates on goods moving between Levis and Maritime Province points, in either direction, and on goods moving from Maritime Province points to the City of Quebec, the former higher rates remain on goods moving from the City of Quebec to Maritime Province points, and that this condition is alleged to be highly detrimental to the best interests of the Maritime Provinces and of the City of Quebec.

"The Minister further represents that, under Section 38 of the Railway Act (R.S. 1927, c. 170) Your Excellency in Council may, at any time, refer to the Board of Railway Commissioners for Canada, for report or other action, any matter or thing arising or required to be done under any Act of the Parliament of Canada.

"The Minister, therefore, on the advice of the Deputy Minister of Railways and Canals, recommends that the Board of Railway Commissioners for Canada

be requested to enquire into and report to the Government upon the subject matter of the complaints set out in the petitions referred to, and to make any recommendations it may think advisable in respect thereof.

"The committee concur in the foregoing recommendation and submit the same for approval."

It must be noted, however, that prior to the issuance of P.C. 1291 the Government of the day insisted that a preliminary check be made as to the probable reactions in the Maritime Provinces. Accordingly, a deputation from the Quebec Chamber of Commerce went to Saint John, N.B., and Halifax, N.S., with the result that on June 8th, 1929, a favourable resolution was received from the Maritime Board of Trade, a copy of which was duly forwarded to the Honourable Mr. Dunning, the then Minister of Railways and Canals.

In consequence of the issue of P.C. 1291 the Quebec Chamber of Commerce submitted a brief, part of which is as follows:

"It is not proposed in this submission to discuss the principles on which the legislation above mentioned was founded, nor even to call into question the general advantages to Canada brought about by the operation of this Act. May we say at the outset that nowhere throughout the Dominion was this legislation received with more general satisfaction and approval than in the City of Quebec. The difficulties which have arisen were created largely owing to the fact that the Statute did not definitely sanction in **words** that which undoubtedly has been the custom and practice for many generations and that, as a result of what we

firmly believe to have been an omission made inadvertently and without full realization by any of the persons interested of its ultimate consequences, the City of Quebec has been for many years, and is now being seriously injured in its commercial and industrial expansion.

"We believe that no full consideration of the unfortunate situation which might arise with respect to the City of Quebec through the recommendations of the Duncan Report and their consequent implementation in the letter, rather than in the spirit, was given by the Commissioners or by the legislators.

"No representations were made to the Commission or to Parliament having in view the safe-guarding of the interest of the City of Quebec, because it was not thought necessary to do so, and because the public bodies who now support this Petition were so fully in accord with the position of the Maritime Provinces, and so strongly and energetically approved of the measures taken for their relief that they felt that any minor criticism, having as its object the clearer definition of the trade relations which had hitherto existed between the Maritime Provinces and the Eastern section of the Province of Quebec, would have been out of place and might conceivably have prejudiced the general settlement of the Maritime grievances and the rearrangement of a fair and equitable basis of the trade difficulties of that section of the Dominion.

"It can be stated without the slightest hesitation that had any considerable body of public opinion in the City of Quebec suspected for one

moment that this legislation would have for effect that which was considered absolutely inconceivable, i.e., the division of the Port of Quebec into two sections, there would have arisen in the District of Quebec and in Parliament an agitation which might have seriously endangered the carrying into effect of the intentions of the country towards the people of the Maritime Provinces, and which would have at least moulded the said legislation in such a manner that the City of Quebec would not at the present time be labouring under the heavy burden of disability which it must now carry.

"The Duncan Commission, whose findings were the basis of the legislation, was appointed for one purpose only, i.e. to give full relief to the Maritime Provinces from certain conditions which tended to handicap them in their industrial, commercial and economical development. After an exhaustive examination and intensive study the Commission reported certain facts and made specific recommendations, the avowed purpose of which was to place the Maritime Provinces in a position at least as favourable as any in the Dominion of Canada; to develop their resources and take advantage of their trade opportunities. The Report specifically states that the measures of a remedial nature recommended should, on account of the historical and constitutional aspects of the disabilities complained of, be held to be the responsibility of the country as a whole, and that the burden, financial or otherwise, should be borne by the Dominion of Canada generally.

"It is submitted that the authors of the Report

and the legislators did not intend, in bringing about the solution of one problem, to create new disabilities which should especially and in a particular manner be a burden on one single community. We are convinced that if the Commission and Parliament had been apprised of the injurious effect of the legislation on the City of Quebec, the only City in Canada to be so affected, that means would have been taken to obviate them. We cannot believe that the Commissioners and Parliament would have refused to give heed to representations showing:

- (1) that the Port of Quebec is now and has always been one single entity not susceptible of being divided into two parts for one purpose only, i.e. to give to the southern entrance an unfair advantage over the northern;
- (2) that Quebec geographically, historically and ethnically is intimately connected with the whole of the so-called "select territory" and especially with that portion of it lying within a radius of two to three hundred miles from the Port of Quebec;
- (3) that Quebec has been, and is, in so far as the said legislation does not interfere, considered the distribution point for the territory herein mentioned;
- (4) that the City of Quebec suffered a serious trade injury by the application of the Maritime Freight Rates Act which is not being borne by any other section of the country;
- (5) that the inhabitants of at least a considerable section of this "select territory" closely tributary to Quebec City are in many instances

now deprived of the very advantages which the legislation purported to give to them;

- (6) that by the inclusion of the City of Quebec in this territory no important interest would be adversely affected;
- (7) that the Maritime Provinces would not suffer in any appreciable degree by the inclusion of the whole of the Port of Quebec in the "select territory", but on the contrary might at some future date derive considerable benefit therefrom;
- (8) that the Railway Companies have nothing to fear in the way of financial loss or dislocation of traffic by the amelioration of the present highly anomalous situation, but on the contrary may make some appreciable gains in business."

"We are convinced that had these matters been placed before the competent authorities at the proper time, provision would have been made in the Statute to cover the points now raised, and that, with little or no opposition from any section or interest, this present application and submission would not have been necessary.

"Be that as it may, we are today faced with a situation which is fraught with very serious consequences to the industries, trades and business undertakings represented by our Board of Trade, and to the economic position of the City of Quebec, and we hold it to be our duty to present our case fully and frankly to your Honourable Board in order that you may realize fully,

- (1) what are our difficulties;
 - (2) the inevitable and unfortunate result thereof;
- and

- (3) by your recommendations to the Government and to Parliament provide an appropriate and effective remedy.

"Generally speaking, almost every commercial enterprise in the City of Quebec is suffering from this unjust discrimination and is being forced to bear the heavy burden of dislocation of its business, severing of age-long trade connections, or else the abandonment of its affairs. The lines particularly affected are hardware, food, fertilizers, groceries, flour and feed, and those which furnish the absolutely essential necessities to the population which up to the present has been served by them."

We feel that we are justified in asking this honorable Board to make a recommendation as follows:

THAT THE CITY OF QUEBEC BE PLACED WITHIN
THE "SELECT TERRITORY" PROVIDED BY THE
MARITIME FREIGHT RATES ACT 1927."

As was to be expected, the application of the City of Quebec to be included in the "select territory" was opposed by the City of Levis. Unexpected, however, was the opposition of the Montreal Board of Trade which submitted that the granting of the application of the City of Quebec would be detrimental to the commercial interests of Montreal. And this, notwithstanding that immediately prior to the passage of the Maritime Freight Rates Act Quebec, as well as Levis, being on an equal basis for trading in the south shore area has established their markets in fair competition with Montreal up to at least the New Brunswick border.

The Montreal Board of Trade made known its

intention to ask for the inclusion of Montreal in the "select territory" if Quebec's petition were granted. There was also an intimation that the Montreal Board of Trade would eventually request that the "select territory" be restricted to the Maritime provinces alone, leaving out of its operations all the sections of the Province of Quebec included therein under the Act.

In the face of this attitude of Montreal, the Maritime Board of Trade at first favourable to the Quebec application, recanted its previous stand and opposed vigorously before the Board of Railway Commissioners the application of Quebec.

In the hearings, the first two of which took place in the City of Quebec, one on the 19th of November 1930, the other on the 11th of December 1930, copious evidence was produced by the Quebec Chamber of Commerce to show the reasonableness of the application. The transcript of these hearings is contained in Volume 574, page 7600, and in Volume 579, page 10,600 of the Reports of the Board of Railway Commissioners.

Similar sittings were held in Halifax, N.S., and Saint John, N.B. Reports of these sittings are contained in Volume 580, pages 1 to 89, Board of Railway Commissioners. Final hearings were set for the 18th of March 1931 at Ottawa. These hearings never took place, but were postponed pending a readjustment of the personnel of the Board.

Furthermore, the jurisdiction of the Board of Railway Commissioners to deal with this matter was seriously called into question. For this and other reasons it was deemed advisable to postpone further proceedings until a more favourable opportunity presented itself. It is felt that this opportunity is now present

since your Honourable Commission is instructed to review and report upon the effect of economic, geographic and other disadvantages under which certain sections of Canada find themselves.

QUEBEC'S POSITION TODAY VIS-A-VIS
MARITIME FREIGHT RATES ACT

The statutory position of Quebec with regard to the Maritime Freight Rates Act is not changed.

The reasons given in support of Quebec's application for inclusion in the "select territory" in 1930 and 1931 are valid today. Quebec goods and merchandise, destined for the "select territory", must be ferried to Levis at an additional expense of approximately nine cents per hundred pounds. The newly established industrial centre at St. Malo, a part of Quebec City, where, through the initiative and enterprise of the administrators of Quebec, there have been established a large number of important commercial enterprises, will be handicapped in its further development by the necessity of absorbing rates or charges, either by truck, rail or ferry, which will be detrimental to the progress and expansion of these industries. Moreover, in a number of commodities at least, Montreal is enabled to compete successfully in distribution to the "select territory". In a word, through the operation of the Maritime Freight Rates Act Quebec finds itself unjustifiably in an isolated position, and it is to correct this artificially created geographic disadvantage that application for relief is made to your Honourable Commission.

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PART II

THE AMELIORATION OF THE UNSATISFACTORY AND DISADVANTAGEOUS SITUATION AS REGARDS MARITIME TRANSPORTATION IN WHICH THE PORT OF QUEBEC FINDS ITSELF UNDER THE EXISTING ADMINISTRATION OF THE NATIONAL HARBOURS BOARD AND THE PROVISIONS OF THE NATIONAL HARBOURS ACT

The National Harbours of Canada, of which the Port of Quebec is one, form an important part of the Canadian transportation system. Upon their proper and efficient functioning and their ability to compete with the United States ports depend in measure Canadian import and export trade benefits.

THE GIBB REPORT

The Port of Quebec, in common with ports of Halifax, Saint John, Chicoutimi, Montreal, Three Rivers, Churchill and Vancouver, is administered by the National Harbours Board as constituted by 1936 Statutes of Canada, Chap. 42. Previous to this statute, the Harbour of Quebec was a federal property under the administration of three government appointees called the Quebec Harbour Commissioners. The change in administration resulted from the recommendations of Sir Alexander Gibb consequent on a survey of the National Ports of Canada which he conducted at the request of the Government.

The conclusions and recommendations as contained in the Gibb's report can be stated briefly as follows:-

- (1) The commission system of administration was unsatisfactory because:-
 - a) The national interest was subordinated to the local interest;
 - b) The Commissioners generally were at times

too much influenced by political considerations;

- c) The Commissioners, holding office, as they did, at pleasure, were subject to dismissal when the Government changed;
 - d) The Commissioners instead of confining themselves to questions of policy, undertook duties of an executive nature which would have been better left to the permanent staff, with the result that confusion and apathy were rampant;
 - e) The financial aspect of the ports owing to the loose control exercised by the federal government in this regard was unsatisfactory and opened to abuses; and finally
 - f) The engineering factor in the port administration was either faulty or completely lacking, the result being tremendous waste of money and effort.
- 2) In consequence of the above, it was suggested that a central authority be set up to coordinate policy and to control the finances and the engineering undertakings. In place of the local harbour commissioners it was suggested that, in addition to the central authority, a local official called a Port Manager should be placed in charge of each port under the central authority. These suggestions were put into effect by the National Harbours Board Act, 1936 Statutes of Canada, Chap. 42.
- 3) Another recommendation ancillary to the above, which unfortunately was not adopted, was that relating to the appointment of local Harbour Councils which would represent local interests

and port users and assist the Port Manager in matters of local policy. Gibb on Page 31, paragraph 83 and following of the report, says in this connection:

"Considerable latitude should be allowed to the port managers so long as their activities are directed to carrying out the policy laid down by the central authority. It is essential to avoid emasculating the local administration, since no centralized control can replace an efficient and active local administration, or the special knowledge and initiative of the local business community, both of which are vital to a port's prosperity.

"For this latter reason I strongly advocate a local advisory council. There are very many aspects of port working which such a council can properly care for, such as the representation of the interests of private wharf owners, of local merchants and distributors, of local consignees and exporters, of the labour view, and of the attitude of Boards of Trade, Chambers of Commerce, Corn Exchanges and other such trade organizations, in addition to shipping.

"It serves very usefully to identify the community with the port; and to secure the support and interest of local Members of Parliament, the City Council, or provincial Government in schemes, and so anticipate and meet criticisms from any such quarters, or action that might be prejudicial to the port.

"It is invaluable in exploring the

possibilities of local markets, in carrying out advertisement and propaganda and in co-operation with interests likely to promote industrial developments. Finally, a local council provides a useful check on the tendency of more or less permanent officials to become stereotyped or arbitrary.

"The port manager would be ex officio chairman of the council, which would meet regularly and be consulted on all such matters as proposed developments, alterations in rates, important changes in operation. The members of the council should have the right of initiating discussions on matters of policy affecting the port, on any complaints raised by users of the port, and on questions of rate, charges, etc.; but not on any purely executive matters, and they would have no executive duties or powers.

"The advisory council's proceedings and recommendations would be submitted to the central authority, and they should have the right of direct access to the central authority: . . ."

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THE PRESENT SITUATION

The incomplete implementation of the Gibb Report as outlined above, has resulted in a centralization which has met with much criticism throughout Canada, and has been reflected in speeches, and resolutions placed on the Order Paper in the House of Commons from time to time. The Port of Quebec has been particularly affected by this situation.

Before the construction of the ship channel, that is to say for a period of approximately 250 years, Quebec was the head of ocean navigation, being 160 miles nearer the sea than Montreal and approached by a natural deep water channel. This Natural geographical advantage contributed greatly to the economic prosperity of the City. Since the year 1862 or soon after, the prosperity of the Port has declined in favor of Montreal.

The reason for this decline has already been mentioned, namely - the dredging of the ship channel to Montreal. The dredging was initiated by the Montreal Harbour Commissioners and was carried on soon after at public expense by the Government of Canada. That this was detrimental to Quebec, there can be no question, and the economic results were soon felt and are still being felt today. As soon as the ship channel was completed maritime interests concentrated at the Port of Montreal and for good reason - Montreal at the time being the internal centre and source of the export trade, and the move thereto brought the transportation companies closer to the source of supplies. Quebec on the other hand at that time having interested itself in the business of import-export, and having done nothing to develop a hinterland tributary to it, was deprived of the main-stay

of its economic activity by this move. Since that time, despite great effort, Quebec, for the purposes of export, has remained tributary to Montreal. That in due time and by great effort, dint of the people and particularly the merchants of the City did develop, with the help of railways, a territory sufficient to supply the Port for export purposes avail nothing against the superiority established by Montreal in the early days. It would seem moreover that the policy pursued by the railway and maritime interests centered in Montreal exerted then and continue to exert such a pressure on our local economy, that even today boats do not as a rule call at Quebec either from inland or from external points, the reason being that cargoes from Quebec are not generally available.

The centralized policy of the National Harbours Board has mitigated against any remedial measures which might be taken to attract goods for export to Quebec, and as a consequence, despite an apparent balance sheet efficiency, the Harbour of Quebec is today practically unused by, and unknown to prospective shippers. It must not be forgotten that the Quebec Harbour Commissioners were instrumental in attracting trade to Quebec and in fighting, for such things as the preferential rate on grain over the Trans-continental from Fort William to Quebec, in 1921 and in 1926. Since the disappearance of this Board, its functions in attracting trade to Quebec have been to a certain extent taken over by the Quebec Chamber of Commerce. However, it must be apparent that port promotion carried on by this body does not carry the same weight that it would if it were carried on by some authority connected with the port. Thus in this connection, the Chamber of Commerce has succeeded in interesting local exporters of cheese in utilizing the Port of Quebec. The

Port authorities are on the other hand apparently unwilling or not interested in accommodating that business which would consist of a shipment of 50,000 boxes of cheese per annum, amounting to a total of 2,125 tons per year.

Another example of the apparent lack of interest on the part of the authorities concerned in the administration of the Port of Quebec can be seen from a cursory glance at the grain export totals from Quebec in the years 1944 to 1948 and a comparison with the totals in the period 1927-1930. In the former, an average yearly total of over 9,000,000 bushels was received at the grain elevator ^{for export} in the latter, the average had declined to less than half that is, about 4,000,000 bushels, and no representations or attempt was made by the port authorities to remedy the situation.

There are also many products for export in the interland of Quebec which could utilize the Port of Quebec were they given encouragement and service. The impression gained through contact with this extremely centralized body is not favorable to the development of a port such as Quebec, which is over-shadowed by that of Montreal.

The last few years of the administration by the Quebec Harbour Commissioners saw the expenditure of approximately \$25,000,000. for the construction of many new facilities and for the improvement of already existing facilities in the port. Today, under the National Harbours Board, the Port of Quebec is being barely maintained and many of its sheds have fallen into complete decay. It is not exaggerating to say that there is general indignation among the people of Quebec, particularly among the merchants who have occasion to come into contact with the present authorities.

RECOMMENDATIONS

In view of the above state of affairs, it is submitted that the present administrative system is unsatisfactory and that a solution, - be it the adoption of the unfulfilled recommendations of the Gibb Report, or some other method which would do away with the extreme centralization now prevalent with its accompanying evils, - to the present deplorable state of affairs, be adopted by the Government of Canada as soon as possible.

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P A R T I I I

THE PRESERVATION OF THE STATUTARY PREFERENTIAL RATE ON
GRAIN AND OTHER PRODUCTS FOR EXPORT ON THE NATIONAL
TRANSCONTINENTAL RAILWAY FROM FORT WILLIAM TO QUEBEC

INTRODUCTION

The National Transcontinental Railroad owes its origins to certain propositions submitted by the Grand Trunk Pacific Railway to Sir Wilfrid Laurier in November 1902. In these propositions it was stated amongst other things that a transcontinental railway was necessary to handle the expending business of the North West. In the charter granted by virtue of 3, Ed. VII, Chap. 71, S.C., it was provided that the line from Winnipeg to Moncton was to be built as a government work under the name of The National Transcontinental Railroad. The Government undertook to guarantee interest on bonds to 75% of the cost of construction. It was also provided that the National Transcontinental was to be leased, on completion, to the Grand Trunk for a period of fifty years.

From a brief perusal of Sections 42 to 45 of the Statute 3, Ed. VII, Chap. 71, there can be gathered the fact that this railway was built for the express purpose of providing cheap carriage of Canadian products, principally grain, to Canadian ocean ports for export. It is also interesting to note that Section 45 of the said agreement provides for shipping accommodation at Canadian ocean ports for traffic coming over the railway.

The total cost of construction including that of the Quebec Bridge was approximately \$180,000,000. However it was felt at the time that the expenditure was well worthwhile in that it would provide a method of cheap and fast transportation from the Prairies to Canadian

ocean ports. These advantages were realized in the construction itself for, by building on a straight line from Winnipeg to Quebec, a distance of 214 miles was saved and the distance from Winnipeg to Halifax was cut by 250 miles. In addition, the grades on the railway were of a nature to accommodate long trains, the maximum grade being no more than four-tens of one per cent, that is to say approximately 21 feet in a mile. Combining as it did these two essential categories of efficient transportation, high hopes were placed on the success of the undertaking.

Quebec, as one of the terminals of the line, looked forward to rejuvenation of its lagging export trade and to a stimulation of its commercial life. Unfortunately these expectations were not realized. In fact so much did the City of Quebec count on the success of the National Transcontinental that it entered into a contract with the commissioners of the Transcontinental Railway in 1910. By virtue of this contract, upon the undertaking by the railway that it would construct passenger and freight terminals, workshops and wharves, the City sold a property called The Champlain Market, valued at \$2,000,000. for the sum of \$100,000. The Railway did not fulfill its part of the contract although they kept the Champlain Market. This was a serious blow to the Commerce of Quebec and it was further intensified by the non-realization of the expected export trade, particularly on grain through the Port of Quebec for which purpose the railway had been constructed at great cost.

The struggle to secure a cheap rate and the expected development in the export trade did not come about because the rates put into effect between Winnipeg and Quebec were prohibitive. The result was that the

Transcontinental Railroad fell into a state of disuse almost from the time of its completion. Needless to say this state of affairs particularly as affecting the City of Quebec, was strenuously objected to. The City, the Quebec Harbour Commissioners and other public bodies made repeated requests to the Railway, the Government and finally to the Board of Railway Commissioners for the implementation of Sections 42 to 45 inclusive, of 3 Ed. VII, Chap. 71, which provide as follows:

"SECTION 42. - That the Government aid is granted for the express purpose of encouraging the development of Canadian trade, the transportation of goods through Canadian channels. The company accepts the aid on the conditions and agrees that all the freight originating on the line of Railway, or its branches, not specially routed otherwise by the shipper, shall, when destined for ports in Canada, be carried entirely on Canadian territory or by the Canadian inland ports, and that the through rate on export traffic from the point of origin to the point of destination shall at no time be greater via Canadian ports than via United States ports and that all such traffic/ shall be carried to Canadian ocean ports."

"SECTION 43. - The Company further agrees that it shall not, in any matter within its power, directly or indirectly advise or encourage the transportation of such freight by routes other than those above provided, but shall in all respects in good faith, use its utmost endeavors to fulfil the conditions upon which public aid is granted, namely - the development of trade through Canadian channels and Canadian ocean ports."

"SECTION 45. - The company shall arrange for and provide, either by purchase, charter or otherwise, shipping connections on both the Atlantic and Pacific Oceans, sufficient in tonnage and in number of sailing to take care of and transport all its traffic both inward and outward, at such ocean ports within Canada, upon the said line of Railway, or upon the line of the Inter-colonial Railway, as may be agreed from time to time, and the company shall not divert, or, so far as it can lawfully prevent, permit to be diverted to ports outside of Canada which it can lawfully influence, or control, upon the ground that there is not a sufficient amount of shipping to transport such traffic from or to such Canadian ports."

Finally, on the 26th of August 1927, the Board of Railway Commissioners for Canada, sitting at Ottawa "In re General Freight Rates Investigation" partially acquiesced to the City's representations by the issuance of General Order 448 which provided inter alia that the Canadian National Railways publish a rate of 18.34¢ per 100 pounds on export grain from Fort William, Port Arthur, West Fort and Armstrong to Quebec. A report of the judgment is found in 33 C.R.C. 127. The following quotations from the report are of interest.

(1) From the head notes on Page 128.

"Upon representations made by the Quebec Harbour Commissioners, the City of Quebec, the Manitoba Government and other interests, the Board ordered that the C.N.R. publish a rate of 18.34¢ per hundred pounds on all grain for export from Port Arthur, Fort William, Westfort and Armstrong via the National Transcontinental to Quebec, upon

the ground that the existing rate was prohibitive and tended to divert traffic to New York via lake and rail and that the higher rate was not in accord with the express purpose of the construction of the National Transcontinental Railway."

(Assistant Chief Commissioner McLean, dissenting).

(2) In his reasons for judgment, the Chief Commissioner the Honourable H.A. McKeown, K.C., says at Page 168 of the Report:

"The facts complained of with reference to grain are well known and have been many times established. The geographical position of that portion of Canada which produces the largest amount of grain is such that rival routes are presented. In harmony with the undeviating rules of trade, this product as well as others will seek its market by way of the easiest and cheapest route. It is not to be expected that the producers of grain or other articles will forego the largest return they can get by reason of the desire on the part of other sections of the country to handle their business. In consequence, the problem takes on the aspect of bringing about conditions under which Canadian seaports can secure and hold such business, and at the same time assure to those originating such traffic a return not less than can be secured by transit otherwise.

"In order to bring about this result which is of highest importance to the nation, Canada has not scrupled to expend a very large amount of money

in constructing a railway straight from the wheat fields of the west to Atlantic ports.

"The Transcontinental Railway from Winnipeg to Quebec, Saint John and Halifax, was built at a cost, the justification for which rests upon the fact that it would secure to Canadian railways, Canadian ports, and ships sailing therefrom, both in summer and in winter, the carriage of millions of bushels available yearly for export."

(3) The Deputy Chief Commissioner says, at Page 222, as regards the rate of 18.34¢ ordered:

"In the present instance, it would moreover be abundantly clear to all concerned that these rates are ordered in compliance with the provisions of the Statute of Parliament 3 Ed. VII, Chap. 71, and of the agreement entered into pursuant thereto, particularly sections 42 to 45 thereof; and also in compliance with the directions of Orders in Council P.C. 886, of the 5th of June, 1925, and P.C. 24 of the 7th of January, 1926; that the purport of this rate adjustment is to provide, as far as possible the routing of grain and other products through Canadian ports; that if this rate were ineffective or if other competitive rates were reduced, this Board would have to consider the advisability of ordering further reductions with a view of obtaining the desired results."

The Canadian National Railways applied for leave to appeal to the Supreme Court of Canada on this matter, but the application was turned down by the Board of Railway Commissioners on July 25th, 1929, the report of the judg-

ment being contained in 36 C.R.C. Page 81. An appeal from the above decision was then launched before the Supreme Court which in turn refused the application; the report of this judgment being contained in 1930 S.C.R., 288.

THE PRESENT SITUATION IN QUEBEC CITY

The rate as ordered by the Board went into effect in August, 1927, and from a total of 508,234 bushels received by rail in 1927, the year 1928 saw an increase to 2,333,233 bushels. In the period 1927 to 1930 the average yearly rail receipt was 1,251,432 bushels; whereas the average receipt via water was 7,794,969 bushels. The combined receipts for that period at Quebec amounted to a yearly average of 9,046,401 bushels. In the period 1944 to 1948 inclusive, the rail shipment more than tripled, amounting to an average yearly receipt of 4,378,749 bushels. However, on the other hand the receipt by water declined tremendously, the total receipt in the period amounting to only 2,267,555 bushels. Reviewing the combined receipts of the period 1944-48, the yearly average is seen to have declined to 4,850,888 bushels, about half the yearly average for 1927 to 1930 inclusive.

From these figures, it can be seen that today Quebec's position as an export centre has declined and that in addition it is dependent on rail transportation for the small amount which it does receive. The causes of this situation are as far as can be ascertained as follows:

(a) The fact that all water transportation of grain is cheaper than the preferential all railway rate, and the fact that Quebec is in an unfavorable position regarding the receipt of grain by water due to the fact that an extra two or three days must be used by boats

coming past Montreal to Quebec combined with the lack of rate cargo.

(b) The fact that insofar as all-rail transportation is concerned, the conditions contained in Sections 42 to 45 are not being carried out, namely that the rate of 18.34¢ is not low enough to encourage the use by the shippers of the Transcontinental Railway, or else the Canadian National Railways is not encouraging the use of this route or providing shipping from the Port of Quebec as is required by Section 45 quoted above. Consequently the City of Quebec views with consternation the recent general percentage increases granted the railways, and declares that such increases are discriminatory towards the City of Quebec.

ARGUMENT

In connection with the percentage rate increases granted, - we submit:

Firstly, - That the increase over the basic rate of 18.34¢ from Fort William to Quebec will result in a further disparity between all water and all rail rated and is in consequent prohibited and will inevitably result in depriving Quebec of its export grain trade.

Chief Commissioner McKeown at Page 170, 33 R.C., says:

"For its advancement in the way of grain export, Quebec must look to the National Transcontinental Railway and to the fulfilment of the objects for which it was constructed."

The increase in rates over the National Transcontinental will prevent the further carriage of grain and other goods from Fort William and Winnipeg over the line of the National Transcontinental except in extraordinary

conditions. The deprivation of this import-export trade will have an extremely adverse effect on the economy of the City and people of Quebec, and in addition will defeat one of the principal objects for which the National Transcontinental was built at tremendous cost, namely - the cheap carriage of export goods to Canadian ocean Ports.

"The Transcontinental Railway from Winnipeg to Quebec, Saint John and Halifax, was built at a cost, the justification of which rests upon the fact that it would secure to Canadian Railways, Canadian ports and ships sailing, therefrom, both in summer and winter, the carriage of millions of bushels available yearly for export".

(Chief Commissioner McKeown, Page 168, 33 C.R.C.

Secondly, - It is submitted that the Statute of Canada 3 Ed. VII Chap. 71, as interpreted by the Board of Railway Commissioners in 33 C.R.C. 127, overrides the argument by the railways that the cost of operation necessitates an increase in the rate. In page 167 of the Report above mentioned Chief Commissioner McKeown says:

"What may be the result of the reduction in the rates on grain eastward over the National Transcontinental Railway to Canadian Ports, remains to be seen' after such rate has been put in and the traffic moved thereunder. In considering any loss in revenue thus occasioned, it must be remembered that such rates are being put in following the agreement made between the Government of Canada and the Grand Trunk Pacific Railway Company embodied in Chap. 71, 3 Ed. VII, Section 42..."

The Deputy Chief Commissioner at Page 224 also remarks:

"But even if a rate of eleven cents per bushel from Armstrong to Quebec were not in itself a profitable rate, I am of the opinion that the Board, in determining a just and reasonable rate, must take into account the circumstances which accompanied the creation of the National Transcontinental and the Grand Trunk Pacific Railways, and the compensation in money already received by these railways for the avowed purpose, if possible, of routing grain and other Canadian products through Canadian channels."

It is therefore recommended that a thorough investigation of the particular circumstances surrounding the establishment of such rates (such rates as established by general Order 448) be undertaken with a view to implementing Sections 42 to 45 inclusive of the National Transcontinental Railway Act.

CONCLUSION

No discussion of the economic disadvantages, under which the City and people of Quebec labour, with regard to transportation problems, would be complete without reference to the role played by the Railway Companies.

In connection with this we advance the following submissions:-

- 1) The railways, both Canadian National and Canadian Pacific, have pursued and are pursuing a policy inimicable to the interests of the City of Quebec in that;

- a) They have concentrated their operating and maintenance facilities at Montreal, to the exclusion of Quebec, thus denying to the people of our City their fair share of railway employment, and of revenue arising therefrom;

b) They have encouraged the flow of trade and commerce of the City of Quebec and its hinterlands towards Montreal, instead of Quebec where it rightfully belongs. In doing so they have relegated the City of Quebec to the status of a branch line terminal. An illustration of this policy can be found in the fact that the main line to the Lake St. John region is from Montreal. Yet an examination of the history of this area will show that it owes its development to the construction of the Quebec and Lake St. John Railway (originally called The Quebec and Gosford Railway) which was heavily financed by the City of Quebec under by-law of the said City No. 250 dated 23rd of February, 1876, and by-law No. 264 dated 9th of February, 1883. The Quebec & Lake St. John Railway was eventually taken over by the Canadian Northern which in turn was absorbed by the Canadian National Railways. The injustice of this situation is quite apparent - the Lake St. John area opened up by the initiative of the citizens of Quebec and then the profit from this enterprise flowing towards Montreal which contributed nothing.

2) That the Canadian National Railways in addition to the above has not fulfilled the obligations and undertakings by which it was bound in contracts entered into by its predecessors;

a) By a contract dated the 26th of August, 1910, before Charles Edmond Taschereau, Notary Public, between the City of Quebec and the Commission of the Transcontinental Railway; in consideration of the sale to the said Railway of the Marche Champlain, being designated No. 2300 of the official cadastre of the Champlain Ward of the City of Quebec, on the official plan and book of reference; it was agreed that the Transcontinental Railway would

build passenger and freight terminals, workshops and wharves in the said Champlain Quarter which would be the most considerable in the Province of Quebec. The aforementioned Champlain Market property sold for the nominal sum of \$100,000. was worth at least \$2,000,000., apart from the value of the building on it. The Transcontinental Railway agreed to expend a minimum sum of \$2,000,000. on these works. This agreement was not kept by the Transcontinental Railway although they did not hesitate to keep in their possession (The C.N.R. still has possession) the Champlain Market property. When this state of affairs was protested it was stated that a contract dated the 22nd of September, 1913 between the City of Quebec, the Commissioners of the Transcontinental Railway, and the Canadian Pacific Railway Co. and the North Shore Railway Company, made inapplicable the previously agreed upon terms. However that may be, and the City of Quebec never admitted any such contention, by tacit agreement the construction of workshops and terminal facilities was undertaken at St. Malo. In 1939 the St. Malo shops were abandoned by the C.N.R. and turned over to the Government of Canada for war purposes. Since that time the C.N.R. has no terminal or workshop facility of its own in the City of Quebec. An outright violation of its contractual obligations.

As regards the keeping of agreements. It is very much to be doubted, in view of the facts, that the Canadian National Railways has complied with Section 43 of Statute 3 Ed. VII, Chap. 71, which reads:

"The Company further agrees that it shall not in any matter within its power, directly or indirectly advise or encourage the transportation of such freight by routes other than those above provided,

but shall in all respects, in good faith, use its utmost endeavours to fulfill the conditions upon which the public aid is granted, namely - the development of trade through Canadian channels and Canadian ocean ports."

The record in this matter speaks for itself.

It must be noted that the Canadian Pacific Railway is not itself entirely free from blemish in this connection, for by contract between the Government of the Province of Quebec and the C.P.R. the Canadian Pacific Railway undertook to establish its eastern terminus in the City of Quebec and to maintain also a repair department, and workshops. The said undertakings read as follows:

"Statuts de la Province de Québec, 45 Victoria (année 1882) Chapitre 19, Appendice A, Article 6, Page 71:

'Qu'en autant que la dite acquisition du dit chemin est constituée par les présentes une extension du chemin de fer canadien du Pacifique, le Terminus Est du dit chemin sera fixé et restera perpétuellement à l'endroit connu sous le nom de Casernes de la porte de Québec, dans la cité de Montréal, à moins que plus tard, la compagnie n'étende son chemin de fer du Pacifique jusqu' à la cité de Québec, dans lequel cas le terminus de Montréal pour les passagers restant toujours aux dites Casernes de la porte de Québec.'"

"Statuts de la Province de Québec, 45 Victoria (année 1882) Chapitre 20, (contrat entre la Province de Québec et le Syndicat des Chemins de fer de la Rive Nord) Article 12, Page 90:

'Le département des mécaniciens, le bureau des ingénieurs et les ateliers de construction et de réparation du dit chemin, seront dans la cité de Québec, et le syndicat gardera à son service, autant que, dans son opinion, la chose sera compatible avec la bonne administration de son chemin, les employés actuellement au service du gouvernement; et le syndicat ne congédiera sans cause, aucun des employés actuels, sans lui donner au moins un mois d'avis ou une compensation raisonnable.'"

Needless to say these agreements have not been carried out.

b) The Canadian National Railways has actively opposed the interests of Quebec notably in regard to Quebec's application for inclusion in the select territory under the Maritime Freight Rates Act, before the Board of Railway Commissioners in 1930. It also showed its opposition to the interests of Quebec in actively opposing the implementation of agreements entered into under the Act 3 Ed. VII, Chap. 71, which has already been discussed.

3) That railway freight service to and from the City of Quebec is characterized by unnecessary loss of time. In this age of competitive transportation facilities time is of the essence of any contract for the carriage of goods, and it is no wonder that in the City of Quebec it is estimated that over 75% of wholesale merchants utilize the more expensive motor transportation facilities in preference to the railways. This necessarily results in a diminution of revenue, such diminution

certainly cannot be corrected by the increases put into effect and about to be put into effect. It is therefore suggested that the railways seek a more comprehensive solution to the problem of decreasing revenues and rising costs.

We wish to state in conclusion to this brief that the City of Quebec is not in any way attempting to obtain preferential treatment, on the contrary it hopes that the submissions contained herein will have the effect of inducing this Royal Commission to make such recommendations as may be required to remedy the disadvantages under which the City of Quebec has laboured and is labouring in its struggle for economic prosperity and self-sufficiency.

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(Page 8235 follows)

MR DESMARAIS: Q. Mr. Power, would you turn to page 1 of your brief; in the second paragraph you refer to the economic disadvantages under which the City and District of Quebec finds itself. Would you kindly tell us what area is included in the phrase "City and District of Quebec"?

A. Well, it would naturally include the city proper and suburbs to within a radius of ten miles approximately.

Q. In the last paragraph on the same page you refer to the handicaps being artificially created; is it correct to say that the handicaps to which you refer are as follows: the dredging of the St. Lawrence River, the cut-off from the Lake St. John Railway, the M.F.R.A. failing to include Quebec in the select territory -- these are the three to which you refer; are there any others?

A. There are others which I have not included, and which my colleague from the Chamber of Commerce will elaborate on more fully.

Q. That is, Mr. Poisson?

A. Mr. Poisson.

Q. The Secretary of the Chamber of Commerce?

A. The Secretary of the Chamber of Commerce.

Q. Now, have you in mind any other handicaps besides these artificial ones? Are there any natural handicaps for the City of Quebec?

A. Well, as compared to the City of Montreal, for instance, we are not situated at the outlet of any inland navigation as they are. That is the one which strikes us most forcibly, and it is one which has played a large part in the relative developments of the two cities.

Q. Then at the bottom of page 1 and the top of page 2 you refer to the restoration of certain priorities in trade and commerce of which the citizens of Quebec believe

themselves to have been deprived. Could you indicate shortly what these priorities are?

A. Well, I would say briefly they consist in Quebec's proximity to certain markets such as markets of the south shore below, from Levis to the New Brunswick border, and also its proximity to the Saguenay and Lake St. John area. The priorities of which we speak are priorities of closeness to these areas -- priority in that we are naturally able to sell and buy from them cheaper than any other comparable city or district.

Q. Now, in the first paragraph on page 2 you refer to the statutory and contractual rights which the City of Quebec has acquired in the past. Are these all mentioned in your brief later on, or would you wish to enumerate them briefly?

A. I would like to make a note at this point that this is more or less the introduction to the main body of the brief, and below is set out exactly what our purposes are in submitting this brief. However, to answer your question, Mr. Desmarais, the statutory and contractual rights to which we refer relate particularly to the rates on the National Transcontinental Railway.

Q. And the contractual right is the agreement that Quebec made in regard to the Champlain market?

A. No; it refers to the contractual rights embodied in that statute.

Q. Now, at page 2, in the centre of the page, you make three recommendations; I understand these are the main recommendations of your brief?

A. That is right.

Q. You had perhaps better read those.

A. "In particular, the submissions contained in this brief have as their object:

- (1) The amendment of the Maritime Freight Rates Act so as to include the City of Quebec in the 'select' area;
- (2) The amelioration of the unsatisfactory and disadvantageous situation as regards Maritime transportation in which the Port of Quebec finds itself under the existing administration of the National Harbours Board and the provisions of the National Harbours Act;
- (3) The preservation of the statutory preferential rate on the shipment of grain and other products from the Prairie Provinces to Quebec over the National Transcontinental Railway."

THE CHAIRMAN: Q. Is that statutory preferential rate one provided for by the Act of 1903?

A. Yes, sir.

Q. And you say it has been departed from?

A. Yes, sir.

MR DESMARAIS: Q. I understand you develop each one of these points as you go on in your brief?

A. That is right.

Q. Now would you turn to page 5 of your brief; in the first paragraph you refer to the cut-off which gives direct access for the products of the St. John-Saguenay region to the City of Montreal, and deprives Quebec of the benefits of the export and import trade to and from that section of the province. Now, just where is this cut-off that you refer to?

A. The cut-off is at Riviere a Pierre.

Q. Is this really a cut-off, or is the main line---

THE CHAIRMAN: Where is it on page 5, Mr. Desmarais?

MR DESMARAIS: About twelve or thirteen lines

down, they refer to a cut-off.

THE WITNESS: The thirteenth line.

THE CHAIRMAN: Where you say, "The Corporation of the City of Quebec subscribed and paid"---

MR DESMARAIS: Yes.

THE CHAIRMAN: Yes, I see:

"This railway, after having been taken over by the Canadian National Railways, was diverted from its original purpose of bringing traffic to Quebec by means of a cut-off..."

MR DESMARAIS: Q. Now, is this really a cut-off or is the main line from this region to Montreal with a cut-off to Quebec?

A. No, actually the join at Riviere a Pierre is what was formerly the Great Northern Railway.

THE CHAIRMAN: Gentlemen, the time has come for us to observe a few minutes' silence.

(At this point there was a two-minute period of silence in recognition of Remembrance Day).

MR DESMARAIS: Q. And you state that on account of this cut-off the trade from the Lake St. John District goes direct to Montreal instead of Quebec, where you state it was originally intended that it should go?

A. Yes. We call it a cut-off at this point because it has that effect. Actually it was the Great Northern Railway, part of the Great Northern Railway line from Quebec to Hawkesbury and through to Ottawa. Now that portion of the line from Riviere a Pierre is part of the main line from Montreal to Chicoutimi.

Q. Would not the City of Montreal be a natural market for this region of Lake St. John?

A. Not any more than Quebec.

Q. You are citing this as an example of a dis-

advantage to Quebec?

A. Yes. I am not saying that it should not have been done, and I am not getting involved in questions of railway policy; all I am stating here is that Quebec has as a result of this cut-off lost a certain amount of trade and commerce from that district.

Q. And you draw the same conclusions when you refer to the dredging of the St. Lawrence River?

A. That is right. We are citing them purely as disadvantages which exist; we are not asking for remedies from this Commission.

Q. Now will you turn to page 9 of your brief; in the second paragraph, after referring to the definition of "eastern lines" contained in the Maritime Freight Rates Act, you refer to the "rather arbitrary separation and discrimination within the Port of Quebec". Does the Port of Quebec comprise the City of Levis?

A. It does, yes, so much so that the City of Levis had a representative on what was then the Quebec Harbour Commission.

Q. Does it also comprise the City of Lauzon?

A. That I am not sure of.

Q. Now, does not the Duncan Report, at page 22, indicate the reason for the selection of Diamond Junction and Levis as the divisional points, and they give the reasons why the select territory terminated there?

A. It says:

"For this purpose, we cannot regard the Atlantic Division as ending at Riviere du Loup and Monk, which are its present western limits. The divisional points should, in our view, be Diamond Junction and Levis, Diamond Junction being the point at which the Trans-continental Railway meets the old Intercolonial Rail-

way, and Levis the point to which, in 1879, the Intercolonial Railway was extended."

Quebec has always considered that and still does consider that statement a mistake. Quebec, and not Levis, is the terminal of the Intercolonial Railway. It is a mistake in phraseology on the part of the Duncan Commission. In adding to that point, Quebec states and has stated for a number of years that the building of the Quebec Bridge was not only a link in the National Transcontinental, but it was also a completion of the Intercolonial Railway to St. Lawrence ports, Quebec being one of them.

Q. You contend that Quebec City should have, then, been included in the select territory, and this contention has continued ever since?

A. There is a distinction there. We do not contend that the area should be extended as much as we contend that the fact that Quebec is the terminus should be recognized, and therefore that Quebec should be included.

THE CHAIRMAN: Q. You say Quebec instead of what?

A. Instead of Levis -- Quebec and Levis.

Q. You do not exclude Levis?

A. No.

MR DESMARAIS: Q. Now, from page 9 to page 15 of your brief you go on and trace the history of what happened when Quebec City brought this matter up before the Government, and there was P.C. Order 1292 issued in June 1930?

A. 1291.

Q. 1291, that is right. The hearings of the Board of Railway Commissioners then, and opposition was encountered by the Canadian National Railways and certain sections of the Maritimes?

A. And the Montreal Board of Trade.

Q. And the Montreal Board of Trade; and you state

finally:

"For this and other reasons it was deemed advisable to postpone further proceedings until a more favourable opportunity presented itself."

That was in 1930?

A. 1931.

Q. 1931?

A. Yes. The hearing was set, as I say in the brief, for the 18th of March, 1931, at least the date was set for final hearing here at Ottawa, for March 18, 1931.

THE CHAIRMAN: Q. At what page of the brief is that referred to?

A. It is at the bottom of page 14, sir, the last sentence:

"Final Hearings were set for the 18th of March 1931 at Ottawa."

Q. You say these hearings never took place?

A. No, sir.

Q. Well, how do you account for that?

A. Well, sir, I say further on in the brief, the jurisdiction of the Board of Railway Commissioners to deal with this matter was seriously called into question, and I would like to quote from page 7608 of the proceedings of the Board of Railway Commissioners for Canada, volume 574. This is an objection raised by Mr. J. A. Walker, who represented the Halifax Harbour Commission, the Halifax Board of Trade and the Transportation Commission of the Maritime Board of trade. He says:

"The only way the report of the Duncan Commission can be altered is by a review of the principle which caused the Duncan Commission to recommend and Parliament to pass, the Maritime Freight Rates Act, and the only one who can possibly do that or the only body

that can properly make recommendations reviewing what has been done by the Duncan Commission or what has been done by the Maritime Freight Rates Act, is a body with Terms of Reference as wide and as comprehensive as the Duncan Commission. I am submitting that this Board with its present powers cannot review the work of the Duncan Commission. This is one of our objections to having this Freight Rates Act inquired into by this Board."

MR DESMARAIS: Q. Now, the matter was abandoned in 1931, and you state that it was deemed advisable to postpone further proceedings until a more favourable opportunity presented itself; and you state that this is the opportunity?

A. This is the opportunity.

Q. Do you believe that the same reasons that existed in 1927 still exist to-day, or are there new reasons added to those?

A. In general, as is stated further on, starting at the middle of page 15, the reasons are substantially the same to-day as they were then, in 1930. However, we do state that the situation is not so desperate as it appeared to be at that time, due mainly to the fact that automotive transportation facilities were or did become available in a short time which relieved the burden to a large extent.

Q. But you contend that Quebec has suffered a disadvantage through all these years?

A. It has suffered a disadvantage.

Q. But still apparently the disadvantage was not too great, because apparently Quebec progressed quite well during those years; is that not the fact?

A. Well, we do not admit that Quebec's progress can be---

MR DESMARAIS: It might be of interest to the Commission to recall what happened in Quebec City, when the statement of the Hon. C. G. Power, whom I presume you know, was made, as appears in volume 28, on page 5266, of the transcript. Mr. Power said:

"Strange as it may seem, Quebec is the fastest growing community in eastern Canada. During the past number of years, since I have had the honour of representing the city of Quebec, it has risen in population from something like 90,000 to over 190,000."

Q. Now, I presume that you agree that this is a correct statement?

A. I do agree that it is a correct statement, but I would say we have progressed despite the disadvantage which we have encountered as regards the Maritime Freight Rates Act and others which we mention.

THE CHAIRMAN: Q. Would you please tell us how the automobile came to your relief? In what way? How did the advent of the truck influence the situation we have here?

A. Well, sir, the trucking concerns undertook to carry the goods to our markets on the south shore at cheaper rates than the railways did, and they still do.

Q. On the south shore?

A. On the south shore, in what is now the select area, from the New Brunswick border.

Q. That is, from Quebec City across and down the south shore?

A. Yes, sir, across the Quebec Bridge or across the Quebec Ferry.

MR DESMARAIS: Q. Isn't there also another factor, that the wholesalers in Quebec can truck their

merchandise over to Levis over the ferry?

A. That is right.

Q. And then take the advantage of the---

A. It is estimated that the average cost of that is 9 cents per hundred pounds.

THE CHAIRMAN: Q. Just across the ferry?

A. To pay the cartage across the ferry and to load it on to the railway cars at Levis, in order to take advantage of the Maritime Freight Rates Act.

Q. Extra handling?

A. Extra handling, and cartage, ferrying -- which we contend means that practically the same amount of trade is going into the Maritimes from Quebec and Quebec making less profit, and the ferry companies or others interested in handling these things are making the difference.

MR DESMARAIS: Q. Now would you turn to page 15; in the last paragraph you refer to ^{the} newly established industrial centre at St.Malo, which is a part of Quebec City, where important new commercial enterprises have been recently established. Do you believe that these commercial enterprises would have established themselves there if the city was under such severe handicaps, or are there other reasons for this?

A. The reason that the St.Malo area has developed and is developing to-day is because the City of Quebec was able to purchase from the Government of Canada that property, a very valuable property, for a very small amount of money, and they split up the workshops and divided the property up and sold it at very, very reduced prices to industrial concerns, with the idea of encouraging the bringing of trade and industry to Quebec. But we do suggest in that regard that the amendment of the Mari-

time Freight Rates Act would be of great benefit to those industries, because they are so far away from the Levis Ferry, for instance, and we do not state it as a fact, because it has not yet happened, but we do say that these industries might find in due course that once the first flush of the bargain has disappeared, they are labouring under disadvantages which would not accrue to them in other parts of Canada, as regards freight rates.

Q. Well, more or less they were brought there---

A. Well, the bargain was so good that they came.

Q. Notwithstanding these handicaps?

A. What the future will bring we do not know.

Q. Now, from page 17 to page 19 your brief deals with the recommendations of the Gibb Report, and you point out at the bottom of page 18 that one of the recommendations of Sir Alexander Gibb was not adopted, namely, the one relating to the appointment of local Harbour Councils?

A. Yes, that is right.

Q. Now, I understand that this matter has been urged by various ports for a good many years, including Halifax and St. John?

A. Yes.

Q. You are aware of this?

A. Yes; it has been a subject of discussion in the House of Commons for a great number of years, as any glance over the records of Hansard will show, and as a matter of fact the Hon. C. G. Power in his capacity as Member of Parliament for Quebec South placed a resolution on the order paper in December 1947 which reads as follows -- I believe it is December 19, 1947:

"In the opinion of this House, the policy of centralization pursued by the National Harbours

Board has been highly detrimental to the progress of the ports within the jurisdiction of the said Board; and that a greater degree of expansion of Canada's trade, both external and internal, can be achieved by the encouragement of local initiative and enterprise through a policy of wider autonomy conferred upon the management of the Ports, combined with consultation and co-operation with local commercial, industrial and labour interests."

THE CHAIRMAN: Q. What page is that?

A. Sir, I do not know what page it is on in Hansard, from this copy which I have.

Q. You do not quote it in your brief?

A. No, sir.

MR DESMARAIS: Q. But nothing has---

A. Nothing has happened of a practical nature.

Q. Now, at the top of page 20 you state that the Port of Quebec has been particularly affected by the failure to implement the Gibb Report, and you go on to say in your brief that as a result there has been failure to attract trade to the Port of Quebec, declining grain shipments to the Port, lack of interest of the centralized body in the development of the Port, and a decrease in expenditures and a lack of upkeep of the facilities of the Port. I believe these are the main things that you---

A. I do not say anything about a decrease in expenditures, I believe.

Q. I thought you had mentioned that, since the---

A. I say that the Port is stagnating and some of the facilities are in a state of decay, but I do not say anything about the expenditures which the National Harbours Board has made -- not that I remember.

(Page 8255 follows)

Q. Well, I thought that on page 22 in the second full paragraph you said "The last few years of the administration by the Quebec Harbour Commissioners saw the expenditure of approximately \$25,000,000 - " ?

A. That is the Quebec Harbour Commissioners; that is not the National Harbour Board.

Q. But since the National Board there has not been expenditures?

A. I don't know what their expenditures have been.

THE CHAIRMAN: Tell me this - "The last few years". What years were they?

A. The National Harbour Board Act was passed in 1936 and since then I would say -

Q. It was prior to 1936?

A. I would say ten years prior to 1936.

Q. You say that all these things would not have happened if it were not for the centralization to which you refer? Did you wish to expand on that?

A. Our position is fairly simple. We feel that Quebec, being so close to Montreal, is naturally very over-shadowed by its economic weight, so much so that foreign shippers think of Canadian ports in terms of Montreal, and have not much knowledge of Quebec. The same thing applies to shippers in Canada; they think of shipping to Montreal and not to Quebec because they are not aware of the facilities that Quebec can offer and the advantages which Quebec can offer, and we say that is the reason that Quebec particularly needs promotion which a centralized body cannot give.

MR. DESMARAIS: You contend if there was a local council there, that they would look after the interests of the port?

A. They would promote the port, yes.

Q. Any promotion work that is done for the port now is done by the Chamber of Commerce?

A. That is right, yes.

Q. Which is not an official body?

A. Which is not an official body and cannot bind the authorities at the port.

Q. Have you figures to show the possible tonnage passing through the Port of Quebec in all products since the Gibbs Report was implemented in 1936?

A. No, I have not.

Q. I believe these figures appear in the National Harbour report?

A. I have not got it with me.

Q. Have you looked at that?

A. I have, yes.

Q. What do they show?

A. They show that the amount of tonnage going through Quebec-- for instance, last year I think it amounted to approximately 1,500,000 tons and it has not increased over the years at all and it was about the same as it was in 1930, when the Harbour, as Sir Alexander Gibbs said in his report, was in very bad shape.

Q. There has been no increase and no decrease?

A. Well, the idea of the National Harbour Board was to provide more efficient administration and we contend that it has not done that, that it has not helped at all and we contend that the present set-up with the addition of local councils would be a very effective set-up.

Q. Now in Part 3 of your brief, from pages 23 to 28 (I am summarizing this because you have not read the brief) you deal with the building of the Transcontinental, with Sections 42 to 45 of the Transcontinental Act, and the hopes of the City of Quebec to obtain the grain trade and the

failure to do so and the establishment of the 18.34¢ rate per hundred pounds on grain from Fort William. Then following, on page 28, you say "That this rate is not low enough to encourage the use of the Transcontinental or else that the Canadian National Railways is not encouraging the use of this route", and you add that "The city of Quebec has viewed with consternation the recent percentage increases". Now, in view of the decision and judgment of the Board which you quote at pages 26 and 27, does it not appear to you that you would have a very good case to go before the Board of Transport Commissioners with this, and that is probably the proper body to whom this case should be brought?

A. I think that is true in substance, but I think from a practical point of view it would help tremendously if this Commission would recommend that an investigation into these things were conducted.

THE CHAIRMAN: Into what?

A. An investigation into the particular circumstances of the export of grain on the Transcontinental were gone into. You see, it is very hard to find out exactly how much grain is carried on that National Transcontinental for export, and we have not been able to do it.

Q. Do you think you are not getting your proper share of it?

A. Well, in 1927 they established a preferential rate. The result was that for a while we did get an increase in grain but for the past ten years or so, very little grain has been going over the National Transcontinental to Quebec, and we say from the result that there is something wrong somewhere; that the rate is not low enough or the Canadian National Railway is not encouraging the flow through there or else the shippers refuse to send it through

there but it is only natural that they would send it through the cheapest route unless the facilities provided were not good.

MR. DESMARAIS: You are not aware of the shippers refusing to route it through Quebec?

THE CHAIRMAN: Whom do you mean by "shippers"?

A. Shippers of grain overseas for export, sir, those responsible for sending the grain overseas - maybe.

COMMISSIONER INNIS: Do these recent rate increases refer to the 18.34¢ or are those statutory?

A. That rate of 18.34¢ has been raised; I believe it is now 24¢.

Q. Raised by this percentage increase?

A. Yes, by this percentage increase.

Q. Although it is a statutory rate?

A. We contend it is a statutory rate, yes.

MR. DESMARAIS: Now you suggested in your memorandum that a "thorough investigation be undertaken". Were you suggesting that the investigation be undertaken by this Commission or that this Commission should recommend to the Board of Transport Commissioners to undertake this investigation?

A. That is more or less up to the discretion of this Commission; I cannot tell them what to do.

THE CHAIRMAN: Now you say that the particular rate that you refer to as being a statutory rate ought not to have been affected by the recent increase in rates?

A. That is right sir.

Q. Have you taken any other steps to have the remedy you think you are entitled to given to you besides coming here?

A. No sir.

Q. You have not gone to the Board of Transport

Commissioners?

A. No sir. You see sir, one explanation for that would be the fact that the Port of Quebec is the one which first feels the effect of a large flow of trade through it, and in the old days under the Harbour Commissioners they were the ones that agitated to get these privileges and in 1926 it was the Quebec Harbour Commissioners and the lawyers whom they had retained who finally had the rate granted.

MR. DESMARAIS: I presume that now there is no interest in the National Harbour Board to have this rate prevail?

A. That is right, we do not blame them as such but naturally, being^a national body, they cannot favour one port over another. That is why there should be an amendment to permit some kind of competitive operation.

THE CHAIRMAN: You are not then complaining of any unfair discrimination being exercised against you by the present Harbour control system? If you had your own Board in the city they would be able to carry on propaganda that nobody is carrying on today?

A. We feel that the National Harbour Board set-up today results in discrimination against Quebec.

Q. Why?

A. Because there is lack of interest in promoting -

Q. But does not that apply to other ports?

A. But sir, we are not concerned with other ports, only Quebec.

Q. But if this discrimination was advancing the interests of other ports, then you could use the word "discrimination". Why do you use the word "discrimination" here?

A. It would be probably better to relate the discrimination to ^{the} Act and not to the operations of the Board.

Q. You mean the Act does not give each harbour and port the right to make its own advantages known?

A. Yes sir.

Q. Then, of course, that is the contrary to discrimination?

A. Well, it is a discrimination as compared to other ports.

Q. Well, discrimination against one port implies favours shown to another port? Is that what you mean?

A. It is not a question of favour. Probably "disadvantage" would be a better word.

Q. You mean to say that you think that the proper system would be what I imagine was the old system, each port having its own Harbour Board?

A. No, I would not recommend that.

Q. What do you recommend?

A. I recommend the implementation of the Gibb Report. I suggest the implementation of the Gibb Report.

MR. DESMARAIS: The Gibb Report recommended a local Harbour Board and an advisory Council for it?

THE CHAIRMAN: A local board which is the same as having a local council?

A. Yes.

Q. Then put it this way, that competition be encouraged among all these local councils each one increasing the advantages of its own port?

A. Yes, but a competition regulated so that it would not become cut-throat.

MR. DESMARAIS: This local council would endeavour to promote the interest of its local port?

THE CHAIRMAN: Now then, not only Quebec but ~~no~~ port in Canada has a local council?

A. Sir, the Port of Sorel has not a National Harbour Board.

Q. But it is not only Quebec that has no local council but no other port?

A. No National Harbour Board.

Q. That is what I mean.

MR. DESMARAIS: If they have not a National Harbour Board, then they have their advisory council?

A. They have whoever is in charge of that and they have every right -

THE CHAIRMAN: Would you name some of those to me?

A. I understand that Sorel is a very prosperous harbour though I have not gone into it.

Q. But Montreal is not?

A. I would not be prepared to say one way or the other. Montreal suffers, I presume the same way that -

Q. It is in the same position as Quebec?

A. It is in the same as position as Quebec in so far as no promotion is made but it is not in the same position insofar as promotion is not necessary for Montreal whereas we contend it is necessary for Quebec.

COMMISSIONER INNIS: Isn't the crucial question, however, the loss of control over funds that took place on the establishment of the centralized board because prior to the establishment of the centralized board each harbour had access to funds?

A. They were rather irresponsible, I understand. It resulted in a rather tighter control on the part of the Federal Government.

Q. And you think it has now become too tight?

A. I think in the process of exercising that tight financial control they have gone to the other extreme.

Q. Coming back to the 18.34 is that mentioned in the Act?

A. No sir, that is a judgment, that is an Order of the Board, Order 448.

Q. Which paragraph of the Act does it refer to?

A. Sections 42 to 45, sir.

Q. Will they be read into the record?

A. It is in the brief, sir.

Q. What page?

A. I have not got Section 44; apparently it has no particular bearing.

Q. What page are the others?

A. Those are on page 25, sir.

MR. DESMARAIS: Would you want 44 to be read into the record?

COMMISSIONER INNIS: No.

THE CHAIRMAN: Then these sections 42, 43, and 45, are these sections which give you the statutory right to certain rates? Is that it?

A. Yes sir, as I understand. If you will look at page 27, No.3, the quotation from the Deputy Chief Commissioner, he says:

"In the present instance, it would moreover be abundantly clear to all concerned that these rates are ordered in compliance with the provisions of the Statute of Parliament 3 Ed. VII, Chapter 71, and of the agreement entered into pursuant thereto, particularly Sections 42 to 45 thereof; and also in compliance with the directions of Orders-in-Council P.C.886, of the 5th of June, 1925, and P.C.24 of the 7th January, 1926; that the purport of this rate adjustment is to

provide, as far as possible the routing of grain and other products through Canadian ports; that if this rate were ineffective, or if other competitive rates were reduced, this Board would have to consider the advisability of ordering further reductions with a view of obtaining the desired results."

Q. Now was this judgment the one that prevailed or was this a majority judgment?

A. Yes sir, that is a majority judgment.

Q. Now what have you to say about that judgment?

A. Well sir, I say that from the view that they take of that statute and those Orders-in-Council, they feel that they have no choice in the matter but to establish a rate, the principle of which is set by statute. It must be lower than any rate to United States ports.

Q. Well, you agree with that?

A. Yes sir.

Q. What is the date of that - 1927?

A. 33 Canadian Railway Cases and it is in 1927, I believe.

Q. You say they "partially acquiesced"?

A. Well, there was another demand made regarding the rates from Bay Ports to Quebec. There was a demand made relating to that .

Q. Now then, you say that any subsequent action taken has departed from the decision given in 1927?

A. Yes sir.

Q. Action taken by the Board of Transport Commissioners?

A. Yes sir, we will contend that if we go before them.

Q. When did they depart from it?

A. Well, in granting the recent increase.

MR. DESMARAIS: Now, will you turn to page 31, the last part of your brief, and on page 31 you state that the

Canadian National Railways and the Canadian Pacific Railway have pursued and are pursuing a policy inimical to the interests of the City of Quebec and you give two examples. The first one is the concentration of maintenance facilities at Montreal. You intimate that the City of Quebec does not get its fair share in railway employment. Would you elaborate on that?

A. That is the feeling of the City of Quebec.

Q. Well are you suggesting that the railways should locate maintenance and operational facilities in Quebec for the simple purpose of giving employment to the people of the city?

A. We are citing these things not in order to get any action from this Commission; we are merely citing them in order to point out to this Commission the fact that we have certain disadvantages and the three which we concentrated on are not the only ones. We referred to these, as it were, in order to gain some kind of sympathetic attitude on the part of the Commission.

Q. Then the second example you give is that you state that the railways have encouraged a flow of trade towards Montreal instead of Quebec where it rightly belongs, and you suggest through the region of Lake St. John?

A. That is right. We state that as a fact; we do not intend to get involved in questions of National Railway policy. We just say: "Quebec is not getting the employment and we think it is unfair" and that is all there is to it.

Q. Now we turn to page 34. In the third paragraph you say that the railway freight service from and to the City of Quebec is characterized by unnecessary loss of time. Have you any facts that you want to bring before this Commission in regard to that?

A. Well, in my rather hurried investigation into these

matters, the wholesale merchants and people who have occasion to use the railways, almost unanimously stated that they were dissatisfied with the service given by the railways as far as the time element was concerned, and that is why where it is at all feasible they do use trucking services.

Q. And in the same paragraph you state that over seventy-five per cent of the wholesale merchants utilize the more expensive motor transportation facilities in preference to the railways. Are these the reasons why they do that?

A. I should actually say "The sometimes more expensive" because it is not always so that it is more expensive. That again is the result of inquiries which I made; I was told that.

Q. Anything else you wish to add?

A. No.

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CROSS EXAMINED BY MR. F. D. SMITH

Q. Mr. Power, you are familiar with, as your brief says, the recommendations and the provisions in the Duncan Report?

A. Sir, I am familiar with the transportation side of it only.

Q. Insofar as the transportation problem is concerned?

A. Insofar as it is contained in that report, yes.

Q. Now you quote from paragraph 11 page 22 of the Report and I judge that you have read the recommendations on freight rates contained in paragraph 11?

A. Yes sir.

THE CHAIRMAN: Where is it in the brief? You say he quotes.

A. I did not quote that part in the brief, I don't think.

Q. There are extracts from the Gibb Report on page 19?

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THE CHAIRMAN: Where is it in the brief? You say he quotes.

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Q. There are extracts from the Gibb Report on page 19?

A. There are extracts from the Duncan Report too, sir, at the bottom of page 6 and on page 7.

MR. F.D.SMITH: Yes, that is the reference I had in mind.

THE CHAIRMAN: All right, Mr. Smith, you may go on.

THE WITNESS: The quotation though - you will notice at the bottom of page 5 the quotation is taken from paragraph 8 of page 20. I read it but I won't claim any expert knowledge.

MR. F.D. SMITH: Well, I will refer to that later, Mr. Power. Now I think that it is stated in your brief that the City of Quebec did not make any representations to the Duncan Commission?

A. That is right.

Q. Nor did they oppose the passage of the Maritime Freight Rates Act in 1927?

A. That is right.

Q. And it was not until some time afterwards that application was made to the Government in respect of the matter?

A. I understand - I have no personal knowledge, but I understand there was quite an agitation about it.

Q. In any event that culminated in an Order-in-Council?

A. That is right.

Q. And you have, I understand, read the proceedings before the Board of Railway Commissioners as it then was?

A. Yes, I have read that over once, yes.

Q. Hearings were held in Quebec?

A. The first one was in Ottawa, I believe.

Q. Ottawa, Quebec, Halifax and St. John?

A. That is right.

Q. And that objection to which you refer made by

Mr. J. A. Walker, K.C. was overruled by the Board, was it not?

A. I understand it was at the time.

Q. You have read the record?

A. Yes, but it kept cropping up throughout the hearings.

Q. Isn't it fair to say that Mr. Walker, after being over-ruled -

A. He continued under protest.

Q. But do you remember the proceedings in Halifax where he said that was not a legal protest or something to that effect?

A. I think he said something about not wanting to get legalistic.

Q. In any event, the objection was over-ruled by the presiding commissioner in the Board of Railway Commissioners?

A. Yes, but there were a lot of circumstances apart from that.

Q. Then do you recall that the Order-in-Council was said by the Assistant Chief Commissioner to have been made under the provisions of Section 38 of the Railway Act?

A. It is marked on the Order itself, I believe.

Q. Well Section 38 of the Railway Act provides:

"That the Governor-in-Council may at any time refer to the Board for a report, or other action, any question, matter or thing arising, or required to be done, under this Act, or the Special Act, or any other Act of the Parliament of Canada, and the Board shall without delay comply with the requirements of such reference".

It was pursuant to Section 38 that the Board was asked to inquire into this matter?

A. That is right. I do not wish to say or hang myself on saying that the hearing in this matter was dis-

continued in 1931 perhaps on purely jurisdictional reasons. I did not say that. That may have been one of the reasons and it was but there were other considerations which I am not familiar with at first hand.

Q. In any event since 1931 up to the present time nothing has been done?

A. It might be interesting to point out also that this application was made on behalf of the Chamber of Commerce of Quebec and I understand that after about 1931 when the depression really began to hit Quebec that the Chamber of Commerce for all intents and purposes ceased to exist.

Q. Quebec was not alone hit by the depression?

A. No, but -

THE CHAIRMAN: I do not think it shortens things when you both speak at once.

THE WITNESS: Sir, I wish to say that the Chamber of Commerce as a functioning body lost a great deal of its powers because it did not have any money. They could not support any application or continuance. That is another factor, and a change of Government was another factor.

(Page 8275 follows)

MR. F. D. SMITH: Q. I refer you, Mr. Power, to paragraph 11 of the Duncan Report---

THE CHAIRMAN: Is that in the brief or not?

MR F. D. SMITH: It is not in the brief; perhaps I should read it into the record. It is the second paragraph on page 22 of the Duncan Report:

"We recommend, therefore, that an immediate reduction of 20 per cent (so that 192 will become approximately 155) be made on all rates charged on traffic which both originates and terminates at stations in the Atlantic Division of the Canadian National Railways (including export and import traffic, by sea, from and to that division), and that the same reduction be also applied to the Atlantic Division proportion of the through rates on all traffic which originates at stations in the Atlantic Division (excluding import traffic by sea), and is destined to points outside the Atlantic Division.:"

THE WITNESS: It is in the brief.

MR. F. D. SMITH: Then the next paragraph reads:

"For this purpose, we cannot regard the Atlantic Division as ending at Riviere du Loup and Monk, which are its present western limits. The divisional points should, in our view, be Diamond Junction and Levis, Diamond Junction being the point at which the Trans-continental Railway meets the old Intercolonial Railway, and Levis the point to which, in 1879, the Intercolonial Railway was extended.:"

I also want to refer you to the last paragraph of Paragraph 11 on page 23 of the Report, which reads as follows:

"We think that this broad measuring, once and for all, of these considerations has such decided advantages

that it should not be qualified or delayed by minor criticisms. It separates completely considerations of national public policy from considerations of railway policy proper. It restores the original purposes of the Intercolonial Railway as interpreted by the freight structure prior to 1912, without withdrawing it from the consolidated system of National railways, a step which we think would be retrograde, and, in the end, very unsatisfactory."

Q. Now, the original Intercolonial Railway, as you may recall, Mr. Power, was constructed from Truro to Riviere du Loup in 1876?

A. I am not familiar with its history.

Q. That was before your time?

A. Much before my time.

Q. In any event, the western terminus of the Intercolonial Railway was extended in 1879 to Levis?

A. Yes.

Q. As mentioned in the Duncan Report?

A. Yes.

Q. You have read that?

A. Yes.

Q. Now, in no sense could it be said that Quebec was ever on the line of the Intercolonial Railway?

A. In the Duncan Report it says it went to Levis in 1879. We contend it came to Quebec in 1879, that is all. It came to the Port of Quebec. It is constructed to the ports on the St. Lawrence; that is what the statute says.

Q. It did not come to the City of Quebec?

A. It came to the Port of Quebec.

Q. Levis is the station; as you will note, it refers to stations in the Report -- "stations in the Atlantic Division." Now, surely you would not contend for a moment,

Mr. Power, that Quebec was a station on the Intercolonial, would you?

A. I would say that the Port of Quebec is a station on the Intercolonial Railway.

Q. Well, I don't want to fence with you, Mr. Power.

A. No. That is why the great objection is taken, the fact that here is a harbour split in two.

Q. We are not talking about harbours.

A. No.

Q. The St. Lawrence River runs between Levis and Quebec, does it not?

A. That is so, yes.

Q. The City of Quebec had no direct railway communication with the Maritime Provinces at all, had it, by the Intercolonial Railway?

A. Except through Levis, which was on the other side of the harbour.

Q. It had its own railway connections on the north side of the St. Lawrence River?

A. That is right.

Q. It was connected with Montreal and points west by the C.P.R.?

A. That is so, yes.

Q. And it had also its own railway connections to the north country?

A. That is right, yes; but we say that the ensemble, the whole thing, is one entity, centred around the harbour, Levis being our outlet for the south shore and Quebec City proper the outlet the other way.

Q. But can it be said that it was part of the purposes, the original purposes, of the Intercolonial Railway, that the City of Quebec should be considered as its terminus?

A. No, certainly not, but it is constructed to a port of the St. Lawrence.

Q. Now, do you know anything about present railway freight rates, Mr. Power?

A. No; I am no expert on that at all.

Q. You are not dealing with that?

A. No.

Q. Do you know that there have been commodity rates effected covering the shipment of goods from Quebec to the southern shore of the St. Lawrence?

A. I have no knowledge of it at all.

Q. You have no knowledge. Now, when you speak of this extra 9 cents that the City of Quebec has to pay---

A. Yes, the merchants.

Q. That the merchants have to pay; have you any figures as to the amount of goods that are involved in that?

A. I understand that it is not very considerable now, not as it was in 1930. I have not many figures.

Q. Can you give any figures at all?

A. No, I have not any figures.

Q. Well, would it be a substantial matter?

A. If you want or if this Commission desires, I could get the figures, but unfortunately I have not had the time.

Q. Have you made any study of the amount of traffic that is taken across and shipped from Levis?

A. No, I have not. My colleague might know more about that than I do; I don't know.

Q. Have you made yourself a study or made a comparison of the rates, commodity and class rates, as between Quebec and the southern shore?

A. Levis.

Q. Levis and the southern shore?

A. I believe you have---

Q. I mean, have you any personal knowledge?

A. No.

Q. And you do not know of the low commodity rates that have been put into effect?

A. No, I do not, no.

Q. When you refer on page 2 to the preservation and implementation of statutory and contractual rights which the City of Quebec has acquired in the past, I understood from your previous answers that you were referring to the provisions of the National Transcontinental Railway Act?

A. That is right.

Q. And not to the Maritime Freight Rates Act?

A. No, no; that is not a privilege that Quebec had.

Q. Now, you speak of the restoration of certain priorities in trade and commerce on pages 1 and 2 of your brief, in respect of "territories adjacent to and normally tributary to the City of Quebec, of which priorities the citizens of this section believe themselves to have been deprived." To what are you referring there, Mr. Power?

A. Priorities perhaps is not the correct word, if it has a special railroad meaning.

Q. No, I am not referring to its railroad meaning; I don't know much about railroads myself, Mr. Power -- that is without prejudice.

THE CHAIRMAN: Q. Does priorities mean advantages?

A. Advantages because of their natural location close to these areas of the south shore and the north shore.

MR F. D. SMITH: Q. Well, you have certain advantages, have you not, Mr. Power, with respect to water rates along the St. Lawrence, which other less fortunate people have not?

A. That is something I know nothing about.

Q. You don't know anything about water rates?

A. No.

Q. And you have low railway rates which are compelled by water competition, have you not?

A. To what do you refer there in particular? The general picture?

Q. Yes, from and to Quebec?

A. Inland.

Q. From and to the City of Quebec?

A. We are, I understand, on a parity with Montreal, for instance, as regards the all-water rate on grain from the lakes.

Q. No, but your class rates, your rates are lower, your commodity rates and competitive rates are lower than other parts of the Dominion?

A. I am not prepared to either admit or deny.

Q. You have not yourself, Mr. Power, compared these commodity rates to which I refer?

A. No.

Q. With the relative rates in the select area?

A. No.

Q. Now, Mr. Power, with respect to the question of grain rates, to which you referred, do you know what the present rates are on grain and flour to St. John and Halifax?

A. No, I don't. I understand they made application under this Order 448, didn't they?

THE CHAIRMAN: Q. Who made application?

A. St. John and Halifax.

MR. F. D. SMITH: The City of Halifax made an application, my lord, to the Board.

THE CHAIRMAN: For what?

MR. F. D. SMITH: For a rate of 1 cent over the

18.34 rate which was given in the judgment of the Board.

THE CHAIRMAN: Made an application for an increase?

MR. F. D. SMITH: No, no; for a rate of 19 cents, a differential of 1 cent over that.

THE CHAIRMAN: What became of that application?

MR. F. D. SMITH: That application was dismissed. It is reported, my lord, in---

THE CHAIRMAN: They then were really applying for a reduction, were they not?

MR. F. D. SMITH: The point is that the application of the City of Quebec, the original application of the City of Quebec, in the general freight investigation was supported by the Cities of Halifax and St. John. The matter is referred to in the Sirois Report, my lord, at pages---

THE CHAIRMAN: Was that application of Quebec, supported by St. John and Halifax, granted by the Board?

MR. F. D. SMITH: I beg your pardon?

THE CHAIRMAN: Was that application granted?

MR. F. D. SMITH: Yes, the application of Quebec was granted.

THE CHAIRMAN: Supported by Halifax and St. John.

MR. F. D. SMITH: It was supported by Halifax, yes.

THE CHAIRMAN: Later on do I understand you to say that Halifax applied for some change?

MR. F. D. SMITH: No; Halifax immediately applied for a similar rate with the 1 cent differential.

THE CHAIRMAN: Which would have been a reduction of the rate that was then prevalent.

MR. F. D. SMITH: Yes.

THE CHAIRMAN: And that application was dismissed.

MR. F. D. SMITH: That application was dismissed. The matter is referred to in book 2 of the Sirois Report, pages 257 and 258.

THE CHAIRMAN: What does the Sirois Report say about it?

MR. F. D. SMITH: It said:

"When the railway was opened for traffic in 1916," --

referring to the National Transcontinental Railway --

"a special rate of 6 cents a bushel from Armstrong to Quebec was set. But, in the following year, the management which was directly responsible to the Government, raised the rate to 34.5 cents per hundred pounds (35.5 cents to Maritime ports)."

THE CHAIRMAN: From 6 cents to 34?

MR. F. D. SMITH: That is right. That was the differential between Quebec and the Maritimes, 1 cent differential.

"This rate proved to be prohibitive. In 1925-26 when the Government ordered the Board of Railway Commissioners to carry out a general inquiry into freight rates, emphasizing the importance of 'encouraging to the fullest extent the movement of Canadian grain and other products through Canadian ports' the Quebec Harbour Board, supported by the Governments of the Maritime and Western Provinces, asked that the rate from Armstrong to Quebec be adjusted to the statutory Crowsnest Pass rates for the West.

"The application of the Quebec Harbour Board succeeded, and the grain rate was cut from 34.5 cents per hundred pounds to 18.34 cents -- the Crowsnest Pass rate. There was at that time, as there still is,

a rate of 1 cent per hundred pounds from Montreal or Quebec to Saint John or Halifax on grain coming by rail from Georgian Bay ports, and the application of the Quebec Harbour Board had been made on the assumption (shared by the Governments of the Maritime Provinces) that this 1 cent rate would also apply to grain coming all-rail from Armstrong or Port Arthur. But, after an unsuccessful appeal to the Supreme Court against the ruling of the Board of Railway Commissioners which had applied the Crowsnest Pass rates to Armstrong-Quebec grain traffic, the Canadian National refused to extend to this traffic the 1 cent rate from Quebec to the Maritime ports. Instead, by adding to the rate from Quebec to Saint John and Halifax the reduction it had been ordered to make between Armstrong and Quebec, it left the through-rate from the West to the Maritime ports the same as it had been before the ruling of the Board.

"In an effort to retrieve this defeat, the Halifax Harbour Board, supported by the Maritime Board of Trade, appealed to the Board of Railway Commissioners, asking that the 1 cent rate between Quebec and the Maritime ports be applied to shipments from the West. The real point at issue was whether or not the agreement of 1903 entered into by the Government and the Grand Trunk Pacific called for an all-rail rate to the Maritimes which would not merely meet the all-rail rate to competing American ports, but would also meet the lake-and-rail rate to these ports if this were lower. The Board divided on the application, and the appeal failed."

So at the present time---

THE CHAIRMAN: That is all right historically,

but what does the Sirois Commission say about all that?

MR. F. D. SMITH: The Sirois Commission goes on:

"The rate from Armstrong to the Maritime ports has fluctuated to meet competitive conditions, but has remained well above the figure which the Quebec Harbour Board sought to obtain in 1926. As at December 9, 1938, the rate was 26½ cents."

I can give the Commission the present rate.

"An appeal was taken from the decision of the Board to the Governor in Council and heard January 15, 1932. Supporting it were the Halifax Harbour Commission and the Maritime Board of Trade Transportation Commission; and opposed to it were the Canadian National Railways, the Canadian Pacific Railway and the National Millers Association. Subsequently a petition signed by a number of Members of Parliament"--
Perhaps I need not go into this.

THE CHAIRMAN: No, but perhaps you can tell us what conclusion the Sirois Commission arrived at about the whole thing.

MR. F. D. SMITH: The next paragraph would answer that:

"It is apparent from what has been said here that transportation facilities have been supplied in ample measure to look after a much larger traffic. It is also established that the engagement as to parity of grain rates to American and Maritime ports has been respected if the engagement is held to apply only to rates of the same type. All-rail rates from Armstrong to Saint John and Halifax are on a parity with similar rates from Duluth to New York and other American ports. Efforts to have the all-rail route to the Canadian ports lowered to the level of lake-

and-rail rates to the Atlantic ports have failed to secure authorization from either the Board of Railway Commissioners or the Governor in Council; and it appears from the record that the reason for this refusal was an acceptance of the argument advanced by the railways that this rate would be met by the competing American railways, thus leaving matters unchanged so far as the movement of grain would be concerned."

That was the reason, as I understand it. Now, at the present time the grain rates from the Head of the Lakes on the National Transcontinental Railway are, with the increases, 21% and 6%, 23.96 cents to Quebec, and 43 $\frac{1}{4}$ cents to Maritime ports, Saint John and Halifax; and the grain rates by lines other than the National Transcontinental Railway are 40 cents to Quebec and 43 $\frac{1}{4}$ cents to Saint John and Halifax. So at the present time Quebec is enjoying an advantage of nearly 20 cents in so far as grain that comes by National Transcontinental Railway is concerned, over Saint John and Halifax.

Q. You are not familiar with those rates, are you?

A. No; I am just familiar with the general principle of the thing.

THE CHAIRMAN: Anybody else?

CROSS-EXAMINED BY MR HUME:

Q. Mr. Power, on page 34 of your brief, there are just one or two questions I want to ask. In paragraph 3 on that page you state that railway freight service to and from the City of Quebec is characterized by unnecessary loss of time, and you go on to say that over 75 per cent of the wholesale merchants utilize the more expensive motor transportation facilities in preference to the rail-

ways; then, as I recall it, Mr. Power, you qualified that to Mr. Desmarais, saying that it was not necessarily always more expensive?

A. No.

Q. I wonder, could you tell us whether that use by the merchants is on both inbound and outbound freight?

A. It is, on both inbound and outbound, I understand.

Q. And also, do your investigations indicate the distance that your merchants are bringing the inbound freight?

A. Certainly from Montreal, very much.

Q. Yes?

A. From Toronto occasionally, I understand.

Q. From Toronto?

A. They speak of Toronto as well as Montreal, but Montreal apparently is the main place from which they---

Q. Have you got any information as a result of your investigations that indicates the difference in time that the merchant gains by using truck transport?

A. There again I have no figures on it, but the average time expended, from what I can gather, is from Montreal three to four days by rail, and by truck one day.

Q. Three to four days by rail, and by truck one day?

A. Yes, apart from the added advantage of delivery to destination.

Q. What is the distance by road?

A. The distance by road is about 178 miles, I think.

Q. Do you know the distance by road between Toronto and Quebec City?

A. No, I do not, I could approximate, but I do not know it actually.

Q. I understand that the railway mileage is 501 miles; is that about what you think it is?

A. That probably is what it is.

Q. Do you know whether there is a regular day scheduled service by truck transport between Toronto and Quebec City?

A. No, I do not know.

Q. Perhaps your colleague might be able to tell us?

A. He might know.

CROSS-EXAMINED BY MR O'DONNELL:

Q. Mr. Power, at page 34 of your brief, the opening words read:

"The Canadian National Railways has actively opposed the interests of Quebec notably in regard to Quebec's application for inclusion in the select territory under the Maritime Freight Rates Act, before the Board of Railway Commissioners in 1930."

Now, just so that that matter may be clear, and that the position taken by the Canadian National at that time be understood, I would like to put on the record, my lord, the position as submitted to the Board of Railway Commissioners for Canada at that time by the Canadian National Railways. It is as follows:

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA

IN THE MATTER OF the application of the Quebec Board of Trade arising out of P. C. Order 1291, June 6, 1930,

- and -

IN REPLY to the Board's letter of the 28th of June, 1930, enclosing a copy of P.C. Order 1291 dated the 6th of June 1930, the Canadian National Railways state:

(1) That the Royal Commission on Maritime claims, commonly known as the Duncan Commission was appointed for the purpose of examining certain claims made on behalf of the Maritime Provinces with respect to the reasons for the construction of the Intercolonial Railway.

(2) That based upon the report of the said Duncan Commission an Act of Parliament was passed, known as the Maritime Freight Rates Act 1927.

(3) That in the recital to the said Act it is set out that representations had been submitted to the Commission on behalf of the Maritime Provinces, respecting their economic position and the effect of freight rates thereon.

(4) That the intent and purpose of the said legislation was to grant relief to the Maritime Provinces.

(5) That the management of the Canadian National Railways were and are of the opinion that such relief should have been, and should now be restricted to the said Maritime Provinces and that the "select territory" should not extend beyond the northerly boundary of the Province of New Brunswick.

(6) That if the said territory be now extended to include the City of Quebec, it should in all fairness

also include the City of Montreal.

(7) That if the said City of Montreal be included, similar concessions could not be denied to Toronto and other Ontario Cities and by the same process would extend throughout the length and breadth of the Dominion with the result that all advantage granted to the Maritime Provinces would disappear and a rate level would be in effect, throughout the whole country which the Maritime Freight Rates Act itself declares to be an unjust and an unreasonable basis, apart from the considerations justifying such a basis within the Maritime Provinces themselves.

(8) That the question involved would seem to be one for Parliament itself but that as the Board is asked to make representations to the Government, such representations should be that the present select territory should not be in any way extended but on the contrary should be restricted so as to embrace only the three Maritime Provinces, at whose request the Duncan Commission was formed and whose difficulties the Commission's report and the legislation were designed to remedy.

Dated at Montreal, P.Q., this 11th day of November, 1930.

Sgd. Alistair Fraser

Assistant General Counsel,
Canadian National Railways.

MR O'DONNELL: Q. now, Mr. Power, at page 15, I think, and again at page 32 of your brief, you mention the St.Malo shops; the St.Malo shops, I take it, were the shops, repair shops, previously operated by the Canadian National Railways in Quebec?

A. That is right.

Q. And, as you say at page 32, the St.Malo shops were abandoned in 1939 by the Canadian National Railways and turned over to the Government of Canada for war purposes?

A. That is right.

Q. And, they having been used for war purposes, at the termination of the war the Government of Canada, as you said, sold those shops?

A. That is right.

Q. At a very low figure, to the City of Quebec?

A. That is right.

Q. Which in turn has sold parts of the property to various industries that are now actively operating there?

A. That is right.

Q. Now, in addition to what we were told in Quebec by the Hon. Mr. Power in July last as to the extent to which the city was growing, I see in yesterday's Ottawa Journal, November 10th, 1949, that, apart from growing very rapidly, the City of Quebec topped the list for the year with an average taxpayer's income of \$2,585, which was the highest taxpayer's income in the Dominion of Canada; the city by and large has been prospering fairly well during these last years, has it not, Mr. Power?

A. They may be more honest in making their returns; that is the only comment I have to make.

THE CHAIRMAN: Mr. O'Donnell, has that anything to do with the question?

MR O'DONNELL: Perhaps not, my lord.

THE CHAIRMAN: Q. I see at page 32, about the abandonment of this St. Malo place, the brief says that this is an outright violation of the railway's contractual obligation; is that being pushed at all?

A. We are mentioning that fact, sir, but we are not asking this Commission to do anything about it.

THE CHAIRMAN: All right.

MR O'DONNELL: Q. Well, I take it that the owner of the railway is the Dominion Government?

A. The people of Canada, yes.

Q. And the Dominion Government saw fit to take over the railway shops in 1939 to use for war purposes?

A. Well, a difference, slight in fact but fairly great in law, between the personality of the C.N.R. and the Dominion Government.

Q. That may be; but on the other hand the properties formerly operated by the Canadian National Railways, which were owned by the Dominion Government, were taken over by the Dominion Government in 1939 for war purposes?

A. That is right, yes.

THE CHAIRMAN: I do not think that is quite the point. What the brief says is, "Since that time" -- that is, I suppose, 1939 -- "The C.N.R. has no terminal or workshop facility of its own in the City of Quebec. An outright violation of its contractual obligations.

MR O'DONNELL: As I understand it, my lord, the C.N.R. as such never had a property there, in any event. It was administering certain properties that belonged to the Government. The operation of the railway shops there was under the entrustment and for the account of the Government.

THE WITNESS: Sir, I might point out that in

1930 the Mayor of Quebec at the time conducted a considerable correspondence with the then President of the Canadian National Railways, Sir Henry Thornton, and there was much discussion about this contract with the Trans-continental Railway, and the reply of the C.N.R. in effect was, "Well, you have a terminus at St. Malo shops." What I am trying to say is, they recognized the fact that they were supposed to have a terminal there in that correspondence.

THE CHAIRMAN: Q. Is there anything that you want them to do now?

A. There is nothing that this Commission can tell them to do. I just want to bring it to the attention of this Commission so that in considering the other recommendations which they make they will add more weight to it.

Q. Is this a disadvantage that you complain of in respect of---

A. It is a disadvantage.

Q. The fact that the C.N.R. has no terminal or workshop facility in your city?

A. That is a disadvantage which we have.

THE CHAIRMAN: What about that, Mr. O'Donnell?

MR O'DONNELL: I haven't any instructions on that, my lord, and I don't know.

THE CHAIRMAN: I mean, that is the only purpose for which these things are set out in the brief, apparently.

MR O'DONNELL: I suppose; but Mr. Power says he is not asking this Commission to do anything about it, and I haven't any instructions concerning it.

THE CHAIRMAN: But we have to inquire into disadvantages; you see.

MR O'DONNELL: Well, if the Commission---

THE CHAIRMAN: I am not saying that this is one

of the specific things, but the word "disadvantages" has been used a great deal.

MR O'DONNELL: Well, if the Commission desires information on it at a further stage of the proceedings, I will be glad to get it, to see what justification there is.

THE COMMISSIONER: Q. Well, you say, as I understand it, that you are not pressing for any particular action to be taken?

A. No, because I do not think that this Commission can recommend any particular action under their terms of reference. I think it is a contractual thing.

Q. All right, if you look at it that way.

A. I just wanted to bring it to the attention of the Commission, so they would realize that, apart from the disadvantages which we talk about in the main body of our brief, we have other rather considerable disadvantages.

Q. But you are not asking any recommendation concerning that particular disadvantage?

A. No, sir.

THE CHAIRMAN: All right.

MR O'DONNELL: Q. Do you know anything about the present grain rates for export from Quebec, Mr. Power? I was going to suggest to you that under my instructions the Quebec rate is now lower than the rate through to the American ports?

A. I do not know.

Q. You do not know?

A. I imagine -- I was not prepared to say that it was not; I think that it is; I do not know.

Q. And, notwithstanding that fact, if it be a fact, the port has not been used to the extent that you think it should be?

A. That is right, yes.

Q. As to that you would agree, I suppose, that the shipper has something to say as to the route which will be taken by the shipment?

A. Yes, he has; but if you will read those sections, particularly the section in the Transcontinental Act that talks about the railway in good faith trying to get the grain shipped over that route---

Q. The old contract of the Grand Trunk Pacific?

A. Yes, by which the C.N.R. is still bound.

Q. But you will agree that the shipper has something to say as to the route?

A. Yes. Well, does the C.N.R. say that the shipper is entirely to blame, that they have completely complied with the spirit and content of the sections?

Q. Well, that is something that I haven't any information about either.

A. Well, we only see the result, you see.

Q. Would not the fact that more ships go directly to Montreal than to Quebec account for Montreal's getting a greater share of the traffic?

A. Section 45 says that the railway will provide shipping.

Q. Well, is it not the fact that more ships go through to Montreal than stop at Quebec?

A. Quite right, yes.

Q. And that the grain has been going to Montreal, where the bottoms are, where the ships are?

A. That is right, it has been doing that, yes. We complain of that.

Q. Do you know that in the general freight rates investigation---

THE CHAIRMAN: Q. Pardon me a moment. You say you complain about it?

A. We complain.

Q. How are you going to prevent ships going to Montreal?

A. Well, if the goods are in Quebec, sir, to be picked up----

Q. You want the goods to go right through to Quebec, and the ships will find them there?

A. That is right, sir.

MR O'DONNELL: Q. But the ships coming in have cargoes as well, have they not?

A. I presume they have, yes.

Q. And they go right through to Montreal in most cases?

A. Yes, but on the other hand, stopping in Quebec and unloading and picking up---

Q. Well, the ships in fact do go through to Montreal in greater numbers than to Quebec?

A. That is right. We state that under section 45 the C.N.R. is bound---

Q. You want the C.N.R. to stop the ships at Quebec?

A. We want them to provide shipping facilities to accommodate the grain going through Quebec, and they are to encourage -- if you will read those sections, they say that the railway is to encourage the flow of trade through the ports of the Transcontinental Railway.

Q. Supposing, as is the fact, that Quebec has the same rate as Montreal, and that, notwithstanding, the shipper prefers to ship via Montreal, where ships are to be found to take the grain, what do you suggest the C.N.R. could do in those circumstances?

A. That they provide shipping, and that they make known this cheaper rate to Quebec. There must be some reason why it is not coming to Quebec.

Q. One of the reasons I suggest is that the ships which are to carry the grain for export have had cargoes inbound which go to Montreal, and that, having unloaded at Montreal, they received the grain for export there, which has been shipped upon instructions of shippers to Montreal for export?

A. I cannot deny that, because that is actually what happens, but we complain of that.

Q. Well, I don't blame you for complaining of it, but I don't know what you can do about it.

A. We say it is contrary to sections 42, 43 and 45.

Q. You know that after the general freight rate investigation, as I understand it, the Transport Commissioners ordered export rates to Quebec from points Toronto and west to be reduced to the level of the Montreal export rates?

A. Yes.

Q. In other words, the railways were required to carry export traffic to Quebec, an additional 170 miles, at the same rate as to Montreal?

A. We admit that, but how much---

Q. Now, that had very little effect on the traffic?

A. Very little effect.

THE CHAIRMAN: Was this done in 1927?

MR O'DONNELL: After 1927, my lord, according to my understanding.

Q. And, despite the fact that you get the additional 170 miles for nothing, still the shipments in most cases go from Montreal?

A. Yes. Well, you cannot say that that was any great favour to Quebec. It was easy to put down on paper that the rate would be the same, where we had a cheaper rate from Fort William to Quebec which was not being used;

they were not losing anything by doing that.

Q. All I am pointing out is that the railways were asked to give this extra 170 additional miles for nothing, and, despite that, the shippers still are not using the Port of Quebec to the extent you would like?

A. It would be interesting to know exactly how much was carried under that rate free from Montreal to Quebec.

Q. I don't know about that. I am just pointing out to you that the rate to Quebec is the same as it is to Montreal from Toronto and points west.

THE CHAIRMAN: Q. What has been the effect of that equalization of rates?

A. From Montreal? Well, in view of the cheaper rate, it is rather a gesture more than anything else. We have not been able to get figures on what is carried over what railway to Quebec. For instance, there are no figures to show how much grain is carried on the National Trans-continental from Fort William to Quebec or from other all-rail routes or the lake-and-rail routes.

Q. No, but if the rate to ship this grain to Montreal or to Quebec is the same, how can you complain then that an insufficient quantity goes to Quebec? Could not the shipper direct it to go to Montreal?

A. Sir, that rate is of no benefit to Quebec, we say, because the other rate, the 18.34 cent rate, is so much lower that it does not make any terrible difference to Quebec at all. I mean, the railway extended that rate to Quebec, but has it in fact been used, in view of the much cheaper rate from Fort William over the National Trans-continental?

THE CHAIRMAN: How far does this extension of the similar rate to Quebec and Montreal extend? What shipments would it affect, or what territory?

MR O'DONNELL: All shipments other than those which go over the N.T.R., as I understand it.

THE CHAIRMAN: Just give me an idea of what shipments that would be.

MR O'DONNELL: From points Toronto and west of Toronto.

THE CHAIRMAN: Would it affect grain shipments at all?

MR O'DONNELL: Well, the Georgian Bay grain shipments, I suppose.

There is just one other observation I might make, my lord, with respect to the statement at page 32 of the brief, that there has been an outright violation of contractual obligations. We got into a flurry there, and I do not intend to discuss it with Mr. Power. We do not agree with that statement at all.

Thank you, Mr. Power.

(Page 8300 follows)

Evidence submitted in French will appear in
subsequent volume.

MR. Y. POISSON CROSS EXAMINED BY MR. F. D. SMITH

Q. I have very few questions, my lord, and I will be as short as I can. I may say, Mr. Chairman, that I only saw this supplementary statement this morning so I am not familiar with the various tables in the document some of which I understand are going into the record. Perhaps, however, I can confine myself to some rather obvious questions.

Are you familiar with the special tariff which was put in in connection with the shipment of groceries from Quebec to the South Shore?

A. You mean C.M.195?

Q. Yes.

A. Not very familiar but I know of its existence.

Q. And do you know that the rates under that tariff from Quebec to points on the South Shore of the St. Lawrence down as far as Gaspé are considerably lower than the rates from Lévis?

A. I think so.

Q. You think so?

A. Yes, but those rates do not apply only to Quebec City.

Q. It applies to Quebec City as against Lévis?

A. During the summer months only and only on certain commodities.

Q. Those commodities which are mentioned in that tariff?

A. Yes.

Q. And it is considerably lower?

A. Yes, I think so.

Q. Was that difference not due to truck and water competition?

A. Yes, I was informed of that.

Q. Now you refer to certain tables in this supplementary statement. The first table is a table showing the freight rates on third and fourth class goods from Quebec to various

points, the first station being Amos. Now would the rates covered by that special tariff apply to these points of destination?

A. I don't know.

Q. Now, the next table which is contained in your supplementary statement relates to freight rates on potatoes from two points in the Province of Quebec to Quebec. Is that right?

A. I think White River, it is in New Brunswick.

Q. But it is a short distance from Mont Joli?

A. Not very far away, I think.

Q. And do you know anything about the quantity of production of potatoes at that point?

A. Well, I know there are shipments coming from those points into Quebec City.

Q. But you don't know anything about the acreage or production?

A. No, the only thing I know was that last year or the year before there was a great part of the crop destroyed by fire so as to maintain the prices up.

Q. You have no knowledge as to whether it is a big producing area?

A. Yes, I know it is a big producing area.

Q. In amount relatively to production in Prince Edward Island or New Brunswick, would it be a factor in the potato market?

A. In New Brunswick they produce a lot of potatoes, I know.

Q. But you have no idea of the quantities they produce at those points?

A. No, I know that we buy some from those places.

Q. Now do you know if there is any water competition from LaSarre which is mentioned in page 2 of the table

showing the freight rates on potatoes? Is there any competition from there?

A. No, it is up in the Northwest.

Q. Now generally do you know that comparisons with rates from Quebec to points on the South Shore and to points like Chandler on the Gaspé Coast with freight rates from Maritime originating points to the same territory, and for corresponding mileages, show that Quebec has a large number of freight rate advantages?

A. Except C.M.195 I don't know if there is any special tariff.

Q. But as far as C.M.195 is concerned that gives the preference to Quebec as against the other points in the select territories?

A. On those commodities only, yes, but we are not claiming for agricultural products. We want to be served as well for industrial products.

Q. Well, there is a large list of commodities covered by that tariff, is there not?

A. Yes, I cannot tell you how many but it is only a part of the transportation business, and of course a small part.

CROSS EXAMINATION BY MR. HUME:

MR. HUME: Mr. Poisson, this morning you indicated that you might have a little more information in connection with page 34 of the brief, and not of the supplement, and I just have one or two questions in connection with that matter. Do you know whether the principals of your Chambre de Commerce are using a very large inbound freight service between Toronto and Quebec City?

A. Oh yes.

Q. Are they using the truck transport for that service?

A. Exactly, especially in the hardware business.

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Q. Do you know the difference in time between shipping from Toronto to Quebec City by rail and by truck?

A. It is about double. I think it is about five days at the most from Tormto and ten to twelve days by rail.

Q. Five days by truck and ten to twelve days by rail, and then do you know whether that is a regular scheduled service?

A. I cannot tell you but I know that about every day we see trucks from the Smith Transport and Kingsway Transport apparently coming from Toronto.

Q. And have they got Ontario license plates on them?

A. Well, really I didn't notice that.

Q. Now the last question is, could you tell me in your opinion whether the members of your organization are in favour of the present provincial regulation on that truck transportation or whether they wish to see any control by any other body?

A. No, I think they are definitely opposed to any centralization.

THE CHAIRMAN: Anybody else? (No answer)

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MR. COVERT: Mr. Chairman, there is a telegram from R. D. Atkinson, Secretary General of the Truck Drivers and Helpers Union, Local 31, addressed to the Commission. It is from Vancouver, B.C. and it reads:

"Royal Commission on Transportation
Ottawa.

Suggestions made by A. J. Kelly to remove truck lines from the highways constitute a serious threat to the livelihood of many thousand of Canadian Workers on behalf of the Teamsters Union in British Columbia representing three thousand members we brand this suggestion

as retrograde step in the country's economy stop
 We will fight bitterly any proposal to suppress the
 transportation system which is vital to the needs of
 the public and which is providing employment for a
 large percentage of the country's population stop
 We also oppose placing British Columbia employees under
 Dominion Labour Regulations stop We will fight for
 labour regulations to be administered in British
 Columbia by the British Columbia Government"
 and it is signed by "R. D. Atkinson, Secretary General,
 Truck Drivers and Helpers Union, Local 31."

MR. SINCLAIR: Mr. Chairman, I do not know what the
 policy of the Commission^{is} in regard to these communications
 they get, but it seems to be that they will be read into
 the record, and I am not saying anything as to that except
 that I think a letter was mentioned yesterday from the Steel
 Company of Canada and I would ask that it be read into the
 record.

MR. COVERT: The only difference, Mr. Chairman, was,
 that my understanding was that the Steel Company of Canada
 said that they did not want to file any brief or make any
 public recommendations. I do not think we were authorized
 to read it into the record.

MR. SINCLAIR: The principle, I would suggest, is
 similiar. If they send a communication to the Commission I
 think it should form part of its public record just the same
 as a wire that may come from a Truck Labour Union or other
 organization that makes a communication to the Commission,
 and I do not think that what The Steel Company of Canada has
 said must necessarily govern the matter.

MR. COVERT: I do not want to prolong this, but the point
 is we asked the Steel Company if they would make representat-
 ion, if they wanted to, and I think we intimated that we would

like them to, and apparently they did not see fit to, so I did not think in those circumstances it should be read into the record.

THE CHAIRMAN: Does the letter itself make representations?

MR. COVERT: The letter from the Steel Company of Canada?

THE CHAIRMAN: Yes.

MR. COVERT: Yes, it makes comments about the briefs of the other two steel companies.

THE CHAIRMAN: Well, off hand I would suppose that if the Commission is to consider it at all those to whom it refers should have an opportunity to read it in case they have anything to say about it.

MR. COVERT: As a matter of fact a copy of it was sent to the Canadian Pacific Railway.

THE CHAIRMAN: Was sent?

A. I believe so.

MR. SINCLAIR: I secured a copy, yes.

THE CHAIRMAN: Now then, is that sufficient or not for your purposes?

MR. SINCLAIR: Well, I would like to have it form part of the record, my lord.

THE CHAIRMAN: You would like to have it read?

MR. SINCLAIR: Into the record, yes my lord.

THE CHAIRMAN: Who else would be interested, Mr. Covert, besides the Canadian Pacific Railway?

MR. COVERT: I suppose DOSCO and Algoma would, sir, the two people who have been referred to.

THE CHAIRMAN: Well, is the Commission being asked to consider the letter itself or do these people simply say that they do not want to have any representations made? If the letter itself does contain representations and they

want us to read them and consider them, in that case other parties interested whose briefs are being commented upon ought to have an opportunity to see what the letter says. They might have some reply to make. That could be achieved either by reading their letter here, as you suggest, as this telegram from the Labour Organization ^{was} or sending copies to those concerned and then if they wish to come to us again -

MR. O'DONNELL: It goes to what I suggested yesterday. I do not know anything about the letter nor do I know anything about the telegram but I respectfully submit that if persons or groups have representations to make, they should follow the procedure which is laid down, and that is, make them formally in a statement, come here with their representative to be questioned by people who may have an interest in asking those questions. If the Commission, and I say it with respect, adopts the procedure of allowing telegrams to become part of the record, or letters without the interested parties having an opportunity to cross examine on them, it gets a bit difficult to control the evidence.

THE CHAIRMAN: Yes. I do not think we have had many communications, have we?

MR. COVERT: No.

MR. O'DONNELL: I don't think you should encourage them at all.

THE CHAIRMAN: I know there is some communication from The Steel Company but I have not read it. I do not know what its weight is and what it is directed to. Does it criticize particular parts of these briefs?

MR. COVERT: Yes, Mr. Chairman.

THE CHAIRMAN: Well, we might send it to those whose

briefs are being criticized or read it out loud here. Is it lengthy?

MR. COVERT: Quite lengthy, my lord.

THE CHAIRMAN: Well, Mr. Sinclair, your concern, or I mean the Canadian Pacific Railway's is in what way?

MR. SINCLAIR: Well, I feel that all the steel companies should be before the Commission. I think they have given some information, DOSCO and Algoma and the Steel Company, and I would just like to have it all on the record so that when it comes time for argument at least I know what their views are by reference to the record. The Commission, I think, would also find it convenient to have them all in the record, and then if they wish to ask them for any information, they could make reference to the record, and the fact that it was in there.

THE CHAIRMAN: Now, I understand you have a copy of this letter?

MR. SINCLAIR: Yes sir.

THE CHAIRMAN: Do you want to have your copy read into the record?

MR. SINCLAIR: Yes sir.

MR. COVERT: My lord, I think before this is done we should get the permission of the man who wrote the letter, because he intimated that he did not want it to form part of the proceedings. That is my understanding.

THE CHAIRMAN: Well, we have not read it yet and we do not know what it is. At least I don't know. Either he wants to have his views made known or he does not.

MR. COVERT: That is right.

THE CHAIRMAN: I would give him the opportunity then to decide for himself what he wants to do. He cannot write a letter and say "I want my views kept under cover". If he wants them made known, that is different.

MR. CARSON: Mr. Chairman, this letter has just been brought to my attention and I think there is one sentence that should be put before the Commission and this sentence reads as follows:

"Up until the present we have refrained from adding to the mass of information which has been presented to you but, since other important companies in the steel industry have seen fit to make suggestions and recommendations to you which would be prejudicial to our interests and unfair, we think it appropriate to submit our views on these matters".

Now surely a letter of that character would not be rendered to the Commission without the expectation that it would reach the Commission and would be considered by the Commission, and in my respectful submission unless there is some letter in your files asking that it be withdrawn, it should be treated in the ordinary way and that is in the record. I quite agree there should be some difference between someone who makes a statement and brings a witness here and is cross examined and someone who writes a letter and is not here with a witness. That is a matter of weight for the Commission but apart from that, when someone writes the Commission and says "representations are made that will be prejudicial to our interests" and then goes on to elaborate why they are prejudicial it should be obvious that the Commission will welcome evidence before them.

THE CHAIRMAN: Then hadn't they better send a representative? What is the date of it?

MR. CARSON: November 7th, my lord.

THE CHAIRMAN: We heard from one of these steel companies in Montreal in July. Why do they wait until November 7th?

We have given ample time to all parties to file briefs.

MR. COVERT: There is no question as to that in the letter but, as I say there was a subsequent communication. It was a telephone call made between the Steel Company of Canada and Mr. Hunter will give it. I do not know what my learned friend is trying to suggest; I think I have made it perfectly clear that there is no objection about having the letter read into the record at all if the Steel Company of Canada say they want it read into the record. That is the sole point and I simply suggested to my learned friend that we should get permission from the writer of the letter before it is read into the record because of the communication which the Secretary of the Commission has had.

THE CHAIRMAN: What is that communication?

THE SECRETARY: Sir, on receipt of this document, this letter, there was only the one copy and it did not say that it was a formal representation to this Commission and so I telephoned the writer of the letter, Mr. Hilton, and asked him if he wanted the Commission to consider this as a formal statement and he said, no, he did not. I said if he did we would require more copies and we would set a date for his hearing, and he said "No". He said he did not want it considered in that way and I asked him if the Commission decided at a later date that they required him to be present or some of his people to be examined or to make representations before the Commission, would they consent to do so, and he said they would. But I think certainly on the basis of the conversation which I had with him on the telephone, I think he should be given an opportunity of saying that that is a formal representation because he definitely said it should not be considered as a formal representation by the company.

THE CHAIRMAN: Those whose briefs he criticized should

also be notified that he has intimated the desire to be here and that he is coming.

MR. COVERT: I think that is perhaps correct, my lord.

THE CHAIRMAN: Is that satisfactory?

MR. CARSON: I gather there is going to be another communication with Mr. Hilton, Mr. Hunter, is there?

THE SECRETARY: Well, I will communicate with Mr. Hilton and indicate that there is a request that he make formal representations.

MR. CARSON: Or have his letter read?

THE SECRETARY: Yes.

THE CHAIRMAN: But if he is going to have his letter read and it is contentious, and I gather it is, we will have to notify those whom he criticizes.

MR. CARSON: Yes, I think everybody should be present who is referred to in the letter.

THE CHAIRMAN: I take it he is taking issue with the Sydney people and Algoma?

MR. COVERT: That is correct, my lord.

THE CHAIRMAN: Oh well, we will have to act in fairness to them. All right. Is there any other brief? (No answer)

Now, we have before us something which has been left for consideration. There has been certain correspondence between Counsel for the Commission and counsel for other interested parties about certain questions raised principally in the brief filed by the Canadian Pacific Railway. The matter in question is raised notably in the brief filed by the Canadian Pacific Railway and I find it in the first volume of that brief at page 188. I find a summary there and in that part of the brief the Canadian Pacific Railway summarizes the reasons why they would like this Commission to recommend that the statutory provisions of the Crow's Nest Pass rates be repealed and that those

rates, like most other rates, be handed over to the Board of Transport Commissioners to be dealt with by them.

When those contentions of the Canadian Pacific Railway became known to other interested parties, the question then arose: "Well how far are you going to go into such a question? Are you going to simply deal with it from an academic point of view and decide whether the statutes are better than reference to a Board, or are you going to go into what the Canadian Pacific Railway want you to go into, and study whether in the present context the Crow's Nest level of grain rates is not compensatory?" And that is the question.

(Page 8355 follows)

We told our counsel at that time that we did not, then, intend to go into the question of whether or not these rates were compensatory, and that we would leave it for further decision.

Now we think that this is the time to have that issue determined, and we find that the Canadian Pacific Railway express their position this way: they say that under present conditions, the Crow's Nest level of grain rates is not compensatory, and they come here after decontrol in 1948 and they have that as a result. Shall that not, in that year at least, affect these rates, which they say were not compensatory?

We would like to know now whether they were interested in maintaining the statute as it is, or have anything to say upon the question as to whether or not an inquiry should be made by us into the subject-matter raised by the Canadian Pacific Railway in paragraph 3 of their summary, that is, whether or not these rates are compensatory.

What do you say about that, Mr. Frawley?

MR. FRAWLEY: Yes, my lord. Counsel for the Alberta Wheat Pool and for the Saskatchewan Wheat Pool, those two, at least, should come to Ottawa; and I thought there would be an opportunity for them to be present when the question, which your lordship now raises, was to be discussed.

I make that as a preliminary observation. Frankly, we felt that it might be, perhaps, taken up at the first of the week.

I thought that all your lordship would say today, if the matter were brought up at all, would be to name a date, so that western provincial counsel, and counsel for western grain organizations would be here

to discuss the very question which your lordship now suggests we discuss.

THE CHAIRMAN: No. I do not suggest that we discuss it now. But I would call attention to the fact that the time has arrived when we think it ought to be discussed.

MR. FRAWLEY: Maybe your lordship could name a date.

THE CHAIRMAN: We are asked to recommend that this particular statute be repealed.

Now, the fact that under present conditions, as it is asserted, the rates are said not to be compensatory at the present day, is only one reason advanced for the recommendation in favour of repeal of the statute.

But there are others, too; and those who wish the statute to be repealed will have other reasons to advance besides this one. This matter of compensation is not the only ground.

You may say that these rates are, in fact, compensatory, or you may say that they were not compensatory in the year 1948. There are, nevertheless, good and sufficient reasons why the statute ought to be left the way it is.

MR. FRAWLEY: Yes, my lord.

THE CHAIRMAN: We will hear all these reasons. I cannot anticipate them. But we would like to have this matter argued before us on Monday. Now, what would be the most convenient time on Monday?

MR. COVERT: I think, Mr. Chairman, that perhaps we may as well start with it the first thing, at 10.30 on Monday morning.

THE CHAIRMAN: I am told that counsel for the Wheat Pools of Saskatchewan and Alberta are not here today, although they are in Ottawa.

MR. FRAWLEY: That is true, Mr. Chairman, they are not in Ottawa today.

THE CHAIRMAN: They will have to be notified without any delay, of course. And what about the other interested parties, the other provinces? I see that Manitoba is here.

MR. FRAWLEY: Counsel for Saskatchewan is in the hotel.

MR. EVANS: I would suggest that the Commission might want to have the Manufacturers' Association, and the Industrial Traffic League notified.

THE CHAIRMAN: On this one point as to whether or not we should go on?

MR. EVANS: They made representations to the Commission, sir, in their briefs, about this matter of grain rates, and I thought they might want notice.

THE CHAIRMAN: You refer now to the Canadian Manufacturers' Association?

MR. EVANS: Yes, Mr. Chairman, and to the Industrial Traffic League, both of which had, in their briefs, recommendations about the grain rates.

THE CHAIRMAN: Do you think it would be advantageous if we had wires sent to them this afternoon that we intend to take this matter up on Monday morning at half-past ten?

MR. EVANS: I am not suggesting how they should be notified.

THE CHAIRMAN: No. But I am suggesting to you.

MR. EVANS: I cannot speak for them.

THE CHAIRMAN: Where are they?

MR. EVANS: In Toronto, I think.

THE CHAIRMAN: They are both in Toronto?

MR. McLEAN: I think the U.G.G. and the Northwest Line Elevators should also be notified, because I understand the U.G.G. wish to make representations.

THE CHAIRMAN: Yes, and the Vancouver Board of Trade, I am reminded of that.

MR. COVERT: Mr. Chairman, I see no reason why we should not send telegrams to these people, perhaps, or some notification. But, after all, I suppose the argument which is to take place on Monday, would be more or less as to the nature of the evidence to be submitted to the Commission.

THE CHAIRMAN: As to the extent of the inquiry.

MR. COVERT: Yes. And that is, probably, a little different thing. I have not given it a great deal of thought, but it may be a little different thing.

In the case of the Canadian Manufacturers' Association, however, they have submitted their briefs and completed them.

MR. FRAWLEY: As well as the Industrial Traffic League.

MR. COVERT: As well as the Industrial Traffic League. They submitted their cases in Toronto, and my recollection is -- although I would not like to be too sure -- that they just dealt with it in a general way, and I think they recommended, perhaps, a subsidy, but I may be wrong about it.

But I do think that as long as the three western provinces and the railways, the Canadian Pacific, have brought this matter, perhaps, to a head, that if they were represented, that would be sufficient, I believe, to give us the benefit of practically any

argument there would be.

MR. SHEPARD: I am quite sure that the United Grain Growers, for one, would like to be here on Monday.

THE CHAIRMAN: Have they done anything yet? Have they filed a brief, or taken any notice whatsoever of the Commission's work?

THE SECRETARY: We have had correspondence with the United Grain Growers, and I understand they intend to submit a brief, but it will not be in until the 12th. Mr. Brownlee indicated he would not be in Ottawa until after the 21st of November.

But in the case of the Northwest Line Elevators, we have had no communication from them at all.

THE CHAIRMAN: What we had in mind, it seems to me, was rather a preliminary question: How far we should go in dealing with the proposition advanced by the Canadian Pacific Railway that this statute should be repealed, notably, on the ground that it is not compensatory?

Should we go into figures to show whether or not it is compensatory, figures that might be submitted by Mr. Frawley, for instance. I mention Mr. Frawley, because I see him before me; or by anybody else who wishes to have the statute remain in the statute books.

That is a preliminary question, that is to say, the nature and the extent of the inquiry that we are about to embark upon.

Would you think we might not dispose of that preliminary question without having all the counsel here, Mr. Covert?

MR. COVERT: There must be, Mr. Chairman, some limit to the advice or argument which should be put forward to us; and I think this is a preliminary point: to decide what evidence this Commission should hear.

I cannot think that we would not be well advised by the array of counsel which is present here, and the counsel representing the Wheat Board. So I think, your lordship, that the Commission should be able to arrive at a decision, after hearing them, as to what the evidence should be that you will hear.

There would be no harm in notifying them by telegram. I suppose it is the importance of the subject which leads us to take this course, because, after all, your lordship and the members of the Commission could rule on the point as you best saw fit, in any event.

THE CHAIRMAN: Well?

MR. FRAWLEY: Might I associate myself with what Mr. Shepard said with respect to the United Grain Growers? I have had several conversations with Mr. Brownlee, as well as some correspondence, and I know that his company has views on the subject; and if it is important enough to name a special day, I would not want to have them omitted from being notified.

THE CHAIRMAN: It is possible that Monday may be too early a date?

THE SECRETARY: Mr. Brownlee definitely won't be available until after the 21st of November.

MR. O'DONNELL: Let them engage counsel, then.

MR. COVERT: Mr. Evans says that Monday is not too early a date for him, and I understand that Mr. McLean and Mr. Shepard say it is agreeable to them for that date. What about you, Mr. Frawley?

MR. FRAWLEY: Yes.

MR. COVERT: It is satisfactory. And what about you, Mr. O'Donnell?

MR. O'DONNELL: I am quite prepared to be here on Monday.

MR. COVERT: Are there any others?

MR. O'DONNELL: You don't need to send me a telegram.

THE CHAIRMAN: This brief from the United Grain Growers is to come in tomorrow?

THE SECRETARY: It is due in tomorrow, Mr. Chairman.

THE CHAIRMAN: All representatives who are here are apparently to go right ahead on Monday, but we will speak to it again on Monday morning and we will see then how far we could go with the thing. Perhaps there will be some representations made to us in the meantime which may cause us to adjourn, or something.

MR. COVERT: We might fix Monday at 10.30, and ask counsel to speak to it; and then something may turn up which would cause a delay. However, we would expect counsel to be, I suppose, prepared to speak on the subject.

THE CHAIRMAN: Then, if nobody has anything more to say, we will leave it that way.

MR. COVERT: We have half an hour yet, and the next submission is that of the Province of Manitoba.

MR. McLEAN: Mr. Chairman and members of the Commission, I am appearing with Mr. Shepard to make the Manitoba submission. Mr. Shepard will open the matter.

MANITOBA SUBMISSION

MR. SHEPARD: Mr. Chairman, I think, perhaps, I might first explain that we have the submission now available in two different forms. One is a mimeographed blue covered volume, which was prepared and forwarded to the Commission in time for the deadline, or almost in time for the deadline, on September 12; while the other is a grey covered printed volume, which has only recently become available.

The grey covered volume includes not only the Manitoba brief of points, the original document filed before the Commission, but the brief which was presented by the Honourable Mr. Douglas Campbell, Premier of Manitoba, at the Winnipeg hearings. Then, also, at the back of the book, there is included the complete contents of the mimeographed brief.

Because we ourselves have been working with a mimeographed brief -- and I presume that interested members of the Commission and staff and other counsel have done likewise -- we propose to follow the mimeographed numbering, in presenting our evidence, and the page references will be to the mimeographed copy.

The Manitoba witness will be Mr. R. E. Moffat. He is economic adviser to the Manitoba Government, and he will make the entire submission on behalf of the Committee on Freight Rates which has been working in Manitoba for some three years now, since the rate cases started.

I think, perhaps, for the record, Mr. Chairman, I might just read the names of the committee which has assisted Mr. Moffat in preparing this submission.

W. J. Macdonald, F.C.A., Accountant Adviser

W. C. McDonnell, C.A., Accounting Adviser

W. W. Hayes, Accounting Assistant

Stanley Goldberg,

E. C. Savage

G. H. McLeod

}
}
} Economic Assistants

These gentlemen, together with Mr. Moffat, form the working committee which prepared this submission.

I might also say that the submission was prepared in consultation with a committee of the Manitoba Cabinet, under the chairmanship of Premier Campbell. That committee looked over the draft as it was being prepared, and gave

approval to the final submission as it will now be presented to this Commission.

Before calling Mr. Moffat to the stand, I would, with your permission, like to read a letter which appears on the second page of the mimeographed submission, from Mr. Campbell, as follows:

"PROVINCE OF MANITOBA
OFFICE OF THE PREMIER
WINNIPEG

September 12, 1949.

Gentlemen:

The views and recommendations of the Manitoba Government on certain aspects of the matters referred to your Commission under Order-in-Council P.C. 6033 are submitted herewith.

This submission has not dealt with all the matters that your Commission will be taking into consideration during the course of the inquiry but has been limited to an expression of this Government's views on those situations regarding which we wish to suggest certain changes at this time. If, at a later time, other matters are under discussion before your Commission we assume that an opportunity will be available for an expression of the views of this Government on those matters.

Mr. R. E. Moffat, Economic Adviser to the Government, will appear at your hearings in Ottawa to present this submission and will be available to your Commission to assist you while it is being considered.

Yours very truly,

'D. L. Campbell'

Royal Commission on Transportation,
Ottawa, Ontario."

MR. SHEPARD: Now, with your permission, Mr. Chairman and members of the Commission, we thought we would use the witness box on the left, in the hope that it would be a little easier for exchange between counsel and witness and members of the Commission, and I would now ask Mr. Moffat to take the stand.

R. E. MOFFAT, called:

MR. SHEPARD: I understand, from a discussion I had with Mr. Hunter, secretary of the Commission, concerning the method of presentation and the make-up of the record with respect to Manitoba's evidence in chief, that certain parts, of necessity, we feel, for purposes of clarity, must be read, nevertheless we do not propose to have the entire submission read.

We understand it could be arranged that the parts which are not read will be included in the transcript; and then summarization or comments on those parts which we may make, instead of reading them, will follow immediately on at that place in the transcript, so that there will not be any break-up in continuity of the submission.

THE CHAIRMAN: We have given parties the option of either reading their briefs or taking them as read.

You are taking it as read, but you may wish to read certain parts of it as you go along?

MR. SHEPARD: That is right.

THE CHAIRMAN: There is no objection to that, is there?

MR. COVERT: No, none at all.

THE CHAIRMAN: All right, then, go on.

MR. SHEPARD: Q. Mr. Moffat, how long have you been employed by the Manitoba government?

A. Four years.

Q. And what is your official capacity with that government?

A. I am Economic Adviser to the Executive Council, and I am also the official clerk of the Executive Council.

Q. What are your general duties?

A. So far as Clerk of Executive Council is concerned, it is the recording of official orders in council, more or less in a routine way.

But the Economic Adviser side of the duties is almost equivalent to that of Personal Assistant to the Premier, on economic matters.

It deals with any economic question with which he may be concerned, as to the policy that should be undertaken.

I would say that approximately 50 per cent of my time, for the last three years, has been spent on these freight rates and Royal Commission work, and on transportation. The remainder of the time was spent on a great variety of things, probably the largest single item being the financial arrangements between the Dominion and the Province.

Q. I understand that you were originally employed, four years ago, as Economic Adviser to the Government?

A. Yes.

Q. And then the position of Clerk to the Executive Council was added, more recently?

A. Yes, about a year and a half ago.

Q. And you have been Chairman of the Manitoba Committee on Freight Rates since its inception which, I presume, began with the 30 per cent case, at the end of 1946?

A. Yes.

Q. Have you had any experience in the field of

transportation prior to that time?

A. None whatever.

Q. Just briefly, the time prior to your employment with the Manitoba Government, I understand you were employed from May, 1942, to October, 1945, with the Wartime Prices and Trade Board here in Ottawa?

A. That is correct, in two different capacities, during that period; the latter part of the period as Senior Pricing Officer, in charge of primary food products in the price policy division of the Prices Board.

The first half of that period I was employed as Senior Economist, in charge of prices' statistics, in the economic research division of the Prices Board.

Q. And then, from 1940 to 1942 you were a teaching assistant in economics statistics at the University of California?

A. That is correct.

Q. And in 1940 you obtained your master of arts degree in economics from Indiana University?

A. That is correct.

Q. And in 1938 and 1939 you carried on studies at the University of Dalhousie at Halifax?

A. That is correct.

Q. And from 1936 to 1938 you were employed by the Dominion Bureau of Statistics in Ottawa?

A. Yes, at the lowest classification of clerk that they had on the staff at the time.

Q. And in 1936 you obtained your bachelor of arts degree from McMaster University through Brandon College, at Brandon, Manitoba?

A. That is correct.

MR. SHEPARD: Before asking Mr. Moffat to begin his evidence, I would like to have on the record, at this

time, a brief statement with reference to those portions of Volume II of the Canadian Pacific submission which endeavoured to attack the Manitoba submission.

The Manitoba Committee do not consider it necessary to answer the Canadian Pacific's Volume II in detail, since the Manitoba submission, in our submission, stands on its own feet, and is, in itself, an answer.

THE CHAIRMAN: What part of Volume II of the Canadian Pacific submission?

MR. SHEPARD: It is, roughly, the first 54 pages, I think. We may have reason, at some time, elsewhere, but I think that is where the more sensitive part appears.

All the points raised in the Canadian Pacific Volume II will be answered during Mr. Moffat's evidence in chief, but we do not wish our silence on the other points to be construed by our friends of the Canadian Pacific as being agreement, on our part, with all the very gentlemanly language used by the Canadian Pacific in Volume II.

I would like to make reference first to Chapter I. According to the table of contents it is divided into four sections, and I shall start by referring Mr. Moffat to the introduction section which appears on page 1, as Chapter I, and extends for two and a half pages.

I understand that Mr. Moffat intends to read only a small portion of that introductory section.

THE CHAIRMAN: Can you tell me where this is that you are going to read, where it begins in this present volume?

MR. SHEPARD: It begins on page 43.

MR. EVANS: May I, before Mr. Moffat begins,

suggest that if the Commission should see its way clear to follow the mimeographed copy, it would be helpful, because, when I come to cross-examine, I will have to refer to the paging of the mimeographed copy; and, in addition, our own brief refers to that paging; and if I had to point out to you, sir, where I was reading from, when I was cross-examining, I am afraid I could not find it, because I am told that I have never seen the printed brief. I was told that this morning.

THE CHAIRMAN: What I have here is a printed brief, and as you go along you may want to make reference from one to the other. I would prefer having the printed brief, because it is very much easier on the eyesight.

MR. SHEPARD: We will try to do that for you, Mr. Chairman.

THE CHAIRMAN: All right, then, go on.

THE WITNESS: The brief begins by pointing out that Premier Campbell --

THE CHAIRMAN: What page are you reading from?

A. Page 1 of the mimeographed copy; Chapter I, page 1. It begins by pointing out that Premier Campbell, at the hearings in Winnipeg, indicated that ^a more complete brief would be put in later.

CHAPTER I - INTRODUCTION

Mr. Chairman and Commissioners.

This submission is presented on behalf of the Government of the Province of Manitoba for the purpose of laying before you the views of the Government of Manitoba as to the type of recommendations your Commission should make on the various matters with which you are concerned. You will recall that in the course

of his remarks on the first day of your regional hearings in Winnipeg, Premier Campbell said:

"On April 29th I forwarded to you a document which we called a Brief of Points. That document outlined very briefly our views on certain of the major matters with which you will be concerned. At that time we made it clear that we would make more detailed submissions at a later date. In my remarks today I propose to deal with four major issues and to indicate in some detail our views on them. The remainder of the points and any other matters which may arise as a result of the hearings which you will be holding in various cities and as a result of the studies which you and we will be undertaking, will be dealt with in a more detailed brief to be submitted at Ottawa later."

The submission which is being made today is the more detailed brief to which Premier Campbell referred at that time. It deals with the matters upon which Premier Campbell advanced suggestions as to the recommendations which your Commission should make, and in addition, it deals with a number of other matters which were not referred to in his remarks. We would like to suggest that your Commission consider this submission and the brief presented by Premier Campbell to be an integral part of Manitoba's over-all presentation.

The material contained in either of them should be interpreted in the light of both and the explanation of many of the statements of attitude made in this submission will be found in the economic and historical situation which was pointed out in the June 1st brief.

A brief outline of the mechanics which have been followed in preparing this submission may help indicate the pattern which it follows. The body of this submission attempts to give a coherent and relatively simplified exposition of the position which Manitoba takes on the various matters. In some cases, however, it has been necessary to provide details as to the method of calculation and documentation as to the sources of statements made. In order to avoid serious interference with the continuity of thought, much of this detailed calculation and documentation is omitted from the body of the submission and is included in footnotes and appendixes. In a few cases it seemed advisable to incorporate it directly into the body of the submission.

Before proceeding with the detailed submissions contained in the body of this brief, the Manitoba Government would like to take this opportunity to express its feelings of satisfaction at the appointment of this Royal Commission. These feelings stem partly from the fact that the appointment of your Commission was a direct result of requests made by this government along with the governments of those other provinces which have been actively engaged in the freight rate discussions of the last $2\frac{1}{2}$ years. The Provincial Governments cannot but feel that your appointment indicates that the Dominion Government recognized and concurred in the validity and strength of many of the reasons which led us to make that request.

A more important cause of satisfaction at the appointment of your Commission at this time is that it provides an opportunity for the amelioration and correction of pressing national problems and regional grievances, an opportunity which may not arise again for many years to come. It is not unfair to say that prior to October,

1946, there were relatively few persons in this country who were familiar with the complex economic problems arising out of the operation of the Canadian railway systems. As a result of the various hearings which resulted from the filing of the application for a 30% increase in freight rates and the later related hearing, there is now a relatively large group who have acquired some knowledge of the detailed implications and ramifications of these problems. Thus the various Provincial Governments and certain other groups such as Chambers of Commerce, farm co-operative organizations, etc., are now in a position to express considered views as to the strength and weakness of the present railway freight rate structure and of the Board which regulates it. By appointing this Royal Commission, the Dominion Government has provided a forum in which the views of any interested group may be expressed and tested against the views expressed and the questions raised by others. After hearing this exchange of views and after considering studies which are made by your own staff, your Commission will have a unique opportunity to frame recommendations which will materially improve the situation in the future. If your Commission had not been appointed, this unique opportunity would have been lost and a long interval of years might have intervened before it would have been possible to again assemble the amount of expert knowledge and experience which has been built up in the last 2½ years. For this reason we welcome not only the appointment of your Commission but we particularly welcome its appointment at this time.

2. Turning now to the second heading of Chapter I, "Transportation Other than by Railway," you will find it on page 44 of the printed copy, and it is page 3 of

Chapter I of the mimeographed copy. Have you any comments to make on that section?

A. The only comment I have is to point out that in that section we have expressed the view that transportation other than railway transportation is an issue of considerable importance to Manitoba; but that, in view of the information and experience which is available to us, and in view of the extent to which attention has been directed, primarily to railway matters, this particular brief deals only with railway matters.

Transportation Other than by Railway

It will become apparent that this submission deals mainly with the problems arising from railroad freight rates and that it gives relatively little attention to the problems arising from other forms of transportation except in so far as they have a direct bearing upon the railroad freight rate structure. This characteristic of the Manitoba Government's submission is reflection of two things. Firstly, since Manitoba is situated in a part of the country where water competition is non-existent and in which truck competition is effective only to a limited extent, the railways are in a strong quasi-monopolistic position as sellers of transportation services. Secondly, since the Manitoba Government has taken an active part in the recent freight rate cases before the Board of Transport Commissioners, this Government has the staff and experience to deal with the details of the major problems of the railroad freight rate structure whereas it could only express general attitudes and suggestions on other aspects of transportation matters.

Although both of these facts have caused the Manitoba Government to focus its attention on freight rate problems, the relatively small space which is devoted

to other transportation matters should not be taken to mean that this Government considers these other matters to be unimportant to the autonomy of Canada. They are undoubtedly of tremendous significance; but the very newness of these problems and their different economic and geographic setting prevent the Manitoba Government from assessing their significance as closely. This Government's suggestions, then, are conditioned by its experience of the immediate past and by its prairie environment.

Q. I shall turn now to the top of page 4, Chapter I, where the next heading is "Concern regarding level of freight rates throughout Canada."

A. This section is the section which lays down the general pattern of the entire brief. Consequently, with your permission, I would like to read this section completely.

Concern Regarding Level of Freight
Rates throughout Canada

The economic and geographic environment of Manitoba was discussed at length when Premier Campbell made his submission to your Commission in Winnipeg. Therefore it is unnecessary to devote a great deal of time to this subject here.

Briefly it can be said that the marketing mechanism is such that the people of Manitoba must pay the freight on the outward shipment of their products to market and on the inward shipment of those producers' and consumers' goods which come in large quantities from British Columbia, Eastern Canada, Europe, or Eastern United States. The central location of Manitoba in the continent means that these charges will be high. All of this has been said before, and there is no need for

further elaborate discussion of it.

The implications of this situation, however, deserve some emphasis. Since Manitobans and those who live in the other Prairie Provinces are forced by their central location and the marketing mechanism to pay heavy freight charges on both incoming and outgoing shipments which pass through two or more regions, their primary interest must inevitably be, not the level of freight rates in this Prairie region alone, but the general level of freight rates throughout Canada.

A few examples will serve to illustrate the point under discussion. Wheat shipped from a Manitoba point to the head of the lakes by rail, from there to the Bay Ports by lake steamer, and from there to Montreal by rail, is moving on eastern freight rates during a large fraction of its movement to market. But since the rates charged for shipments over lines in Eastern Canada will affect the Fort William price for wheat, the level of these eastern freight rates, both rail and water, is of great concern to the Manitoba farmer who receives that Fort William price, less freight to Fort William. The level of these rates on wheat, however, is of no concern to eastern Canadian consumers or producers. It may be that under the temporary situation during the existence of a contract price for wheat, the above analyses will not be precisely true, but in the longer run and under ordinary marketing conditions there is no question that the return to the western farmer for his wheat is the price at the world market less the cost of transporting his wheat to the world market. That transportation cost which is deducted includes the charge from his farm to the Lakehead, from the Lakehead to the Bay Ports, from the Bay Ports to Seaboard and from Seaboard to the ultimate

destination. Any increase in any of these rates will be directly reflected in a reduced return to the grower.

Q. In that paragraph you make reference to ordinary marketing conditions, and you state, beginning at the bottom of page 4:

"It may be that under the temporary situation during the existence of a contract price for wheat, the above analyses will not be precisely true, but in the longer run and under ordinary marketing conditions there is no question that the return to the western farmer for his wheat is the price at the world market less the cost of transporting his wheat to the world market."

Have you any comment to make on that phrase "ordinary marketing conditions"?

A. The point in mind there is that this situation will apply in any condition in which the price for wheat in Europe is being worked out on the basis of competition with wheat available from other countries.

That situation can exist whether there is a board marketing organization, or an open market.

There is no intention that these ordinary marketing conditions should be interpreted to mean free marketing, unless there is an advantage by which the price of Canadian wheat is determined by competition with the price of wheat from other countries.

Q. On the international market?

A. On the international market.

THE CHAIRMAN: Q. Would you say whether there is such a competitive situation today?

A. There was such a competitive situation at the time when the wheat agreement was being worked out, during the period when the wheat agreement was in effect,

it is probable that any change in transportation beyond the head of the lakes would not affect the return to the farmer. That is true.

But when the time comes to negotiate a new wheat agreement, it seems clear that the cost of transportation from the head of the lakes to seaboard, and from seaboard overseas will be taken into account in working out the price which is to be put into the new contract.

COMMISSIONER ANGUS: Q. Is it the international wheat agreement we are referring to?

A. No, the U.K. Under the international wheat agreement there is room for negotiation, so it would not affect the situation, unless it happened to be put against a selling state in the international agreement.

THE CHAIRMAN: Q. You say that today this situation, : one which prevails under ordinary marketing conditions, would not prevail with respect to wheat.

A. It is not with respect to wheat, but on other primary products, the situation still exists.

MR. SHEPARD: Q. Will you please continue to read?

THE CHAIRMAN: Q. It does not apply to wheat beyond the head of the lakes?

A. Until the time comes to renegotiate principles, then we turn and look at the situation of commodities being shipped from the east to the west, and that will begin on page 5, the second paragraph.

Similarly, when farm implements are shipped from factories in the Toronto-Hamilton-Brantford area to Manitoba, they move on eastern freight rates until they reach Fort William and the level of these rates is of direct interest to the Manitoba farmer who pays the

f.o.b. price plus freight on the shipment. Here again, the freight charges are of no direct concern to the eastern implement manufacturer, and will interest him only in so far as they affect his competitive position in the prairie market area. The freight rates on lumber in British Columbia are of similar interest to Manitobans who buy lumber from mills on the Pacific coast.

THE CHAIRMAN: Q. Buy lumber under the same conditions?

A. Primarily on the basis of price f.o.b. mill, plus freight being paid by the consignee.

Thus, if freight rates are high in any part of Canada, the prairies feel the burden, whereas certain other areas which are either more self-contained or which are faced with a different marketing mechanism, are more affected -- and I am changing the wording of the brief so that it reads "more affected" instead of "are only affected" -- by freight rates in their own region. It is because of this fact that Manitoba is interested primarily in the general level of freight rates throughout the country. But while it is the general level of freight rates with which the Manitoba Government is primarily concerned, it is not to be supposed that this government believes that this Province's interests will be safeguarded by giving its attention exclusively to the general level of freight rates and neglecting the component parts of the freight rate structure. While we have no direct interest in the level of freight rates which apply on movements of goods entirely within other regions, yet these levels may have an indirect but very important bearing upon the welfare of Manitoba.

For example, the freight rate on steel being moved from an eastern mill to an eastern farm implement

factory, while it is of no direct concern to the people of Manitoba, may affect them in either or both of two ways. Firstly, the freight rate on steel bought by the implement manufacturer, since it is an element in his costs will be reflected in the f.o.b. price of the implement which is charged to the Manitoba farmer. Secondly, if the freight rate on this steel is a rate which is held down by the competition of lake boats to a level at which the railways are not covering the total cost of shipment, the railways may attempt to make up the deficiency in their revenue by charging higher rates in less competitive areas such as the prairies. If there are a great number of these unremunerative competitive rates on commodity movements wholly within the east, then the necessity of making up revenue in the prairies through charging higher freight rates on goods moving entirely within the prairie region, will place considerable burden on the prairie economy.

Later on, we have devoted one chapter and part of another chapter to an elaboration of the concept that is developed there.

While it may be argued that some of these low rates may result in a benefit to Manitoba, which benefit offsets to some extent, the burden described above, the Manitoba Government believes that such benefits to Manitoba do not nearly equal the burdens upon Manitoba emerging from these low rates. The greater part of the benefit is enjoyed by people in other areas, while the revenue losses are compensated by high rates in the west. Hence, the Manitoba Government finds that while its primary interest is in the general level of freight rates, it also has a very strong secondary interest in a rate structure more uniform as between

regions particularly in the securing of a uniform class rate structure, and the eliminating of all uneconomically low competitive rates. It is the national freight rate structure, operating within a framework of national policy, and not merely the rate structure in this province alone, in which the Manitoba Government is vitally interested.

THE CHAIRMAN: Q. Do you intend to tell us what you mean by "uneconomically low competitive rates"?

A. There is quite an extensive section on the criteria to be applied in that case.

MR. SHEPARD: Mr. Chairman, I understood it was your intention to adjourn today at 4.30.

THE CHAIRMAN: It is. Very well, then, we will adjourn now until Monday morning, at 10.30 a.m.,

---The Commission adjourned at 4.30 p.m. to meet again on Monday, November 14, 1949, at 10.30 a.m.

A.R.

Canada
ROYAL COMMISSION
ON
TRANSPORTATION

EVIDENCE HEARD ON

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Discussion re Crows Nest Pass freight rates
and statute which govern them.

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The Chairman: Will have to give some time to consideration - - - - -	8460

Noon adjournment - - - - - 8460

R. E. MOFFAT - Recalled. Examination by Mr.
Shepard resumed - - - - -

Continuation of submission of Province of Manitoba - Chapter 1 - page 6 of mimeo- graphed brief - - - - -	8461
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Adjournment - - - - - 8563

- - - - -

(See next page for index re evidence given in
French on Friday, November 11th, 1949.)

Transcript of evidence to be found following
page 8563 of this volume.

Transcript of evidence, in French, November 11th,

<u>YVES POISSON</u> - Called. Examined by Mr. Desmarais	8300
Presented brief on behalf of City of Quebec	
and Chamber of Commerce of Quebec - - - -	8312

- - - -

ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
MONDAY,
NOVEMBER 14th, 1949

THE HONOURABLE W.F.A.TURGEON, K.C. LL.D. - CHAIRMAN
HAROLD ADAMS INNIS - COMMISSIONER
HENRY FORBES ANGUS - COMMISSIONER

- - - - -

G. R. Hunter,
Secretary.

P. L. Belcourt,
Asst. Secretary

- - - - -

COUNSEL APPEARING:

F.M.Covert, K.C.	} Royal Commission on Transportation
G. C. Desmarais, K.C.)	
Hugh E. O'Donnell, K.C.	} Canadian National Railways.
H. C. Friel, K.C.)	
C.F.H.Carson, K.C.	} Canadian Pacific Railway
F.C.S.Evans, K.C.)	
I.D. Sinclair,	
Wilson E. McLean, K.C.	} Province of Manitoba.
C. D. Shepard	
M. A. MacPherson, K.C.	) Province of Saskatchewan
J. J. Frawley, K.C.	) Province of Alberta.
C. W. Brazier	) Province of British Columbia
F. D. Smith, K.C.	} Province of Nova Scotia; } Transportation Commission of the } Maritime Board of Trade.
J. Paul Barry		) Province of New Brunswick
F. R. Hume,	} Canadian Automotive Transportation } Association
M. L. Rapoport	
R. Kerr	) Board of Transport Commissioners
R. H. Milliken, K.C.	) Saskatchewan Wheat Pool
M. M. Porter, K.C.	) Alberta Wheat Pool
G. F. Henderson	) United Grain Growers.
W. E. Darby, K.C.	) Prince Edward Island.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

RESEARCH REPORT
NO. 1000
PUBLISHED BY THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILL., U.S.A.
1954

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ROYAL COMMISSION ON TRANSPORTATION

Ottawa, Ontario,

Monday, November 14, 1949.

MORNING SESSION

THE CHAIRMAN: Well gentlemen, this morning as I announced before we adjourned on Friday, we intend to hear whatever reasons may be advanced from either point of view on the question of whether or not we should go into evidence in regard to the Crows Nest freight rates and the statute which governs them, to decide whether or not those rates are compensatory. I do not think there is any question about our power to do such a thing if we consider it advisable to do so. We understand, though, the extent of the task which in that case we might be asked to perform, and before going into it we would like to know more about it.

Now, as I said the other day, the Canadian Pacific Railway sets out after a number of pages giving the full reasons, the summary of those reasons why it thinks that the statutory embodiment of those rates should be repealed, on page 188 of the first volume of its brief.

Those reasons are four. The brief says:

"1. In fairness and equity, these rates should be regulated in the same way and by the same tribunal as rates on other traffic.

2. The level of grain rates in western Canada is less than half that for comparable movements of grain in the Western United States."

No. 3 is the most important one for present purposes.

"3. Under present conditions the 'Crows Nest' level of grain rates is not compensatory.

4. If as a matter of national policy the grain growing industry in western Canada should at any time require to be subsidized, the subsidy should be paid directly to the industry by the government of Canada out of general tax monies."

So much for the Canadian Pacific Railway. These rates are binding also on the Canadian National Railways, and I find that in their brief the Canadian National Railways simply state that they are not in favour generally of statutory rates being imposed, and that on the whole they consider it would not be unreasonable to ask that all rates-- including of course the Crows Nest Pass rates -- be handed over to the Board of Transport Commissioners for disposal.

This question then of whether or not these rates are compensatory, advanced by the Canadian Pacific Railway, caused some, may I say, perturbation. As a result of that Mr. Covert, counsel for the Commission, wrote, I find, to Mr. Frawley, Mr. MacPherson, Mr. Shepard, and also had some correspondence with Mr. Evans, the gist of the whole of which was this, that it was not the present intention of the Royal Commission on Transportation to inquire into the compensatory nature of the grain rates, or as a matter of fact of any rates.

On Friday we announced that the time had now come to decide where the position which the Commission took up temporarily on October 28 was to be continued, or whether on the other hand we are now to go into evidence to show whether or not these particular Crows Nest Pass rates are compensatory, and in that case to what extent we should go, what would the study entail, how far it would bring us back and into what kinds of considerations. That I think is the question before us this morning. Mr. Covert.

MR. COVERT: Mr. Chairman, and Commissioners, I have worked out what I thought would be a proper order for the submissions of the various parties. I have consulted with them and this is the suggestion, that Mr. Carson should lead off the discussion followed by Mr. O'Donnell, then Mr. R. H. Milliken, K.C., representing the Saskatchewan Wheat Pool, Mr. M. M. Porter, K.C., representing the Alberta Wheat Pool, Mr. G.F. Henderson, representing the United Grain Growers, Mr. M. A. MacPherson, K.C., representing the Province of Saskatchewan, Mr. Frawley, representing Alberta and Mr. McLean, K.C., representing Manitoba, and the reply of the C.P.R.

MR. EVANS: In the reply I think anyone who supports the position of the C.P.R. should also reply.

THE CHAIRMAN: That is the question, who shall reply for the C.P.R.

MR. COVERT: Mr. Chairman, I just suggested a reply by the C.P.R. as I discussed the matter with them, with Mr. Evans, who has perhaps properly pointed out that there may be some others who would want to make a reply that should be heard in reply.

THE CHAIRMAN: Yes.

MR. COVERT: Because they may have the same views.

THE CHAIRMAN: Well, we are not deciding now about that.

MR. MACPHERSON: I think in that event I should have the right to be heard in connection with the original submission in support of the C.P.R., that is to say if Mr. Evans or Mr. Carson speak on behalf of the C.F.R., and Mr. O'Donnell speaks, then if there is anyone else that supports the position of the C.P.R. they should be heard then if they are to have any right of reply; because we in turn would want to know what they say so that we

will be in a position to reply to them. .

THE CHAIRMAN: Have you ascertained that there are any?

MR. COVERT: No, I have not. What I thought I had arranged, Mr. Chairman, so that there would be no loss of time. I thought I had arranged an opportunity for everybody that was interested to be heard, and since we had asked someone to lead off, I thought they should have a reply. My only purpose was to point out an orderly method of having discussion so that there would not be long argument as to who was to lead off, who was to reply and so on, and I thought I had arranged an opportunity for everybody to be heard.

THE CHAIRMAN: I think, without losing any more time now, we had better begin by hearing those whom we have before us and who assert that these rates are not compensatory and that we should not inquire into them.

MR. CARSON: Mr. Chairman, I think there is no doubt what the subject for argument is this morning, in the light of what you have just said. It is the direct argument to the question of whether or not your Commission should go into the matter of the compensatory nature or otherwise of the Crows Nest grain rates and the extent to which the Commission should embark on such an inquiry.

My submission would be that the Commission should inquire into the compensatory nature of those rates and should hear evidence in support of the statements made by the Canadian Pacific in its submission on that subject in the brief. I do not think there can be any question at this stage that the question as to whether the Crows Nest grain rates should remain under the statutory ceiling or not is an issue before your Commission; because

looking back historically we know that when the provinces were urging the Governor in Council to appoint this Commission they expressly asked in their memorandum suggesting the terms of reference (and I am reading from paragraph 2) that,

"Notwithstanding anything contained in clause 1 hereof the Commissioner should not be empowered to make any inquiry or recommendation which will derogate from the prescriptions contained in the proviso to subsection 5 of section 325 of the Railway Act and in the Maritime Freight Rates Act."

Now, when the Order in Council was passed, no such limitation was put upon the power of this Commission, and I do submit that it is abundantly clear that we have a very pointed issue before this Commission as to whether that statute should be amended or should not be amended as the Canadian Pacific suggests.

Then, Mr. Chairman, that being the issue before this Commission, my submission would be that any evidence relevant to that issue should be received by the Commission, because I do submit that it is a cardinal principle of the administration of justice that any evidence relevant to an issue is always received.

Now then, in our brief we have asked that the Commission recommend that section 325, subsection 5, of the Act be amended by striking out the proviso at the end dealing with the Crows Nest Pass rates (that appears on page 152 of our brief); and along with that, that subsection 6 should be repealed.

Now then, in my submission any reason that is put forward in support of that recommendation is a relevant reason and any evidence that is relates to that reason is equally relevant evidence. One of the reasons,

as your lordship pointed out at the opening this morning, is the one that is numbered 3 in our summary at page 188; and that is that under present conditions the Crows' Nest level of grain rates is not compensatory.

In that connection, commencing with page 170, we put before the Commission submissions, and evidence in support of those submissions, with respect to the cost of handling grain and grain products in western Canada in the year 1948. That continues really over to the point where our summary is developed, and my submission is that any evidence that supports what is contained in that section of the submission is relevant and should be received. By the same token we would not suggest, of course, that cross-examination of that evidence should be in any way limited, or that any evidence that the provinces or any other interests desire to adduce to meet that issue should not be received. We make no such suggestion.

But when the Commission faces its task of considering what recommendations it should make pursuant to this Order in Council, my submission is that the Commission would feel it only appropriate that any reasons that should motivate Parliament in adopting any such recommendations that we may make, should be embodied in the report of the Commission.

In my submission it is a very pertinent and very cogent reason for making the recommendation that we urge that these rates are not compensatory, and we ask the Commission to inquire into that subject and to make the appropriate finding in the light of the evidence that proceeds.

It would be a very different thing if we were asking this Commission to hear evidence in order to

determine what the Crows Nest rates should be. We are not asking that, we are not asking the Commission to embark upon that sort of inquiry so that they can say that the rates they could recommend should be X, Y or Z cents. We are asking the Commission to inquire into the question of the compensatory nature and, having made a finding on that, we are asking the Commission to embody in their report the non-compensatory nature of the rates, if they should so find, as a reason why the statutory ceiling should be removed. Then we are urging that once that statutory ceiling is removed it should be left to the Board of Transport Commissioners; that that was the regulatory body of rates in this country, that that Board should determine, being free then by statute so to determine, what those rates should be.

(Page 8390 follows)

Now, Mr. Chairman, I am bound to say that I cannot for the life of me see that this question can lend itself to any very extended discussion, because I have directed my submission to the two broad questions: First, is the matter in issue? Secondly, if it is in issue -- and I submit it is -- is the evidence that we suggest relevant to that issue? It must be abundantly clear that it is in issue. I cannot see how it could be suggested that such evidence is irrelevant to that issue, and, that being so, I urge the Commission to inquire into the compensatory nature of the rates, to hear the evidence tendered by the Canadian Pacific as to the compensatory nature of the rates, and to hear evidence that is pertinent to that subject.

MR EVANS: I have not very much to add, my lord. You did say in your opening remarks that there were three matters that you had in your mind; one of those was as to what it would entail. Now, the Commission will observe that we have put in issue merely an assertion that in 1948 the grain rates are not compensatory. Your lordship in your opening remarks suggested it might be a matter of concern to know how far back we were going to take the Commission, and it does seem to me that the only relevant question is as to whether the rates are now compensatory. It could avail nothing, I think, to examine into the past and to say whether or not in 1898 or in 1904 or in 1910 the Crows Nest Pass rates were compensatory, but it does seem to me that the answer to your lordship's question as to what it would entail and how far back the matter would go -- we have put in issue 1948 -- it does not seem to me either relevant or necessary that we should go back into the past, because the question arises now under present conditions.

There is one other thing I think I should say to the Commission, and that is, in the letter written by Mr. Covert, to which your lordship made reference, it was said, among other things, that it was the present intention of the Commission not to inquire into the compensatory nature of other rates. I took from that a suggestion that the question as to whether the Commission should concern itself with the compensatory nature of the grain rates might be related in some way to the answer to the question as to whether other rates were compensatory; and I pause merely to observe that with regard to all other rates the position is quite different. With regard to any rate other than the statutory rate, anyone who challenges the compensatory nature of those rates has a forum before which to bring his challenge. In our case this is the only thought we have had, and we have no other; and we do feel that it is clear that, since it is relevant and since this is the only forum, we ought to be able to bring that evidence here.

THE CHAIRMAN: Who is next, Mr. Covert?

MR COVERT: Mr. O'Donnell.

MR O'DONNELL: May it please the Commission: At this point I have very little to say. The Canadian National Railways has made no express submission in connection with the matter, but it does say that, in virtue of the very general powers given to the Commission in the second paragraph of Order in Council P.C. 6033, it is authorized to take into consideration the matter of the public interest concerning the inquiry to be made into the matters involved in order that all questions of economic policy within the jurisdiction of Parliament arising out of the operation and maintenance of national transportation, may be examined and reported upon.

Certainly it would appear that the entire picture could not possibly be seen from the point of view of freight rates were certain very important portions of it to be overlooked. Not by way of any submission, but rather by way of what would appear to be a logical deduction, if the Crows Nest Pass rates are not compensatory, then the deficits on them must in the present circumstances be made up by the remainder of the shipping public. What the Commission might think should be done in those circumstances I think it could arrive at only by having seen exactly what the position is.

I have nothing further to add at this point, my lord.

THE CHAIRMAN: Do I understand you to say, as counsel for the C.P.R. says, that this Commission ought to go into the question of whether or not these rates are compensatory?

MR O'DONNELL: As I said, my lord, we have made no express submission on that.

THE CHAIRMAN: You are not making any now?

MR O'DONNELL: No, we are not making any submission on that point, other than to indicate that it would appear that unless the entire picture be examined it would be difficult to carry out the full requirements of the Order in Council.

THE CHAIRMAN: Anybody else?

MR COVERT: Mr. Milliken.

MR MILLIKEN: Mr. Chairman, for the first time the Saskatchewan Wheat Pool has been represented before your Commission, not because they were not vitally interested in the questions before it, but because they felt that the Province of Saskatchewan could quite adequately represent it. When the question of the Crows Nest

Pass rates came up, however, they felt that they had such a vital interest in that question that they immediately requested permission to appear before you, not at this time to argue the merits of the question, but to ascertain, if you were going to hold any hearings, what would be the extent of those hearings and what would be the nature of the reply that we should make to them.

The Saskatchewan Wheat Pool is an organization of 100,000 Saskatchewan farmers; it owns a subsidiary elevator company which handles approximately one-half of all the grain of Saskatchewan (I had better keep out of Alberta), it owns a flax-crushing plant and owns a flour mill, so that both the organization and its 100,000 members are vitally interested in the question of the Crows Nest Pass rates.

An organization with such a large membership naturally cannot have 100,000 people come together at an annual meeting, so they have a system of electing by districts from all over the province 160 delegates, who represent the shareholders for a year at a time -- that is, not merely for an annual meeting, but for a whole year -- and they are elected annually. The 165 delegates representing that organization met in Regina last week and passed a resolution with regard to this matter, which, with your permission, I should like to read:

"Whereas the production and export of grain in Western Canada constitutes one of the chief assets of the Dominion, Whereas by its provisions the Crows Nest Pass Agreement between the C.P.R. and the Government of Canada which was ratified by statute established a maximum rail freight rate for the shipment of grain and flour from the three prairie provinces for all time,

"Whereas to promote the development of Western Canada the Crows Nest Rates were established as a matter of national policy to meet special geographic and market condition which conditions are with us today unchanged;

Whereas the grain economy of the West has been built upon the assumption that the rates established under the Crows Nest Pass Agreement would not be exceeded;

Whereas the Railway Committee of the House of Commons in nineteen twenty two recognizing that the production and export of grain and flour constitutes a major national asset expressed the view that maximum transportation rates on these commodities should be determined and know and recommended that rates in force under the Crows Nest Pass Agreement should not be exceeded and;

Whereas we are firmly of the opinion that any increase in freight rates on grain and flour would have a disastrous effect on the Saskatchewan economy and would endanger the economy of all Canada;

Therefore we urgently recommend that the rates established under the Crows Nest Pass Agreement be not increased and that control of these rates remain vested in the Parliament of Canada."

Geo. W. Robertson.

Mr. W. J. Parker, the President of the Manitoba Pool Elevators, a like co-operative organization in the Province of Manitoba, has instructed me to inform your Commission that their organization is in complete agreement with the sentiments expressed in that resolution, and, while Mr. Porter is here appearing on behalf of the Alberta Pool and will speak on behalf of the Alberta Pool, there is complete unanimity between Saskatchewan and Alberta and the Manitoba farmer organizations on this question.

We are not questioning at all, sir, your right as a Commissioner to investigate the question of the Crows Nest Pass agreement; I think it is quite within the terms of the reference; but what we are most anxious to know is, if you are going to investigate it, to what extent, and what is going to be the nature of that investigation, and we should like to be assured that we shall be given ample time to prepare a case in connection with it.

In addition, on the question of the compensatory rates, my clients do not consider that that question enters into the matter at all. They think that was a matter that was settled by Parliament when Parliament entered into their agreement with the C.P.R. and when they revised it in 1925 by deleting from that agreement numerous other articles upon which there was also a set rate and by retaining it only on grain and flour; and in their opinion it is Parliament that should deal with that question.

I was very much interested to hear, I think from Mr. Evans, the suggestion that there is no other forum than your Commission before which to appear. Surely the Parliament of Canada can be appealed to at any time to amend the statute.

As I said, sir, I am not here to argue the merits or the demerits of it; we are here to receive instructions.

I think that is all I have to say.

MR PORTER: Mr. Chairman, when your Commission sat in Calgary I appeared on behalf of the Alberta Wheat Pool to speak for its members, who number something just less than half of the grain-producing people of Alberta. These people pay freight, and it comes out of the price of their wheat, which is fixed in world markets and is therefore not capable of being passed on. At that time I took the position that the organization as such would perhaps make some submission here, our hope being that the Provincial Government's conduct of the affairs before this Commission would relieve us of that necessity. When the Canadian Pacific Railway Company's brief and its contents reached us through news despatches, we realized that for the first time the Crows Nest Pass structure was being placed actively in issue before this Commission, and when we received a copy of that brief we found that in support of the position the company was taking it wanted to lead evidence that for one year at any rate the Crows Nest Pass rates were either not profitable or less profitable than other rates.

(Page 8400 follows)

Now, we decided at that stage that because of the peculiar interests of our people in the increase of these rates which would fall entirely on them, that we ought to appear before this Commission, and when I was given the task of organizing the kind of work that has to be done preparatory to such a mission, I referred to the Canadian Pacific Railway's brief and found that they are really raising one question, namely, that these rates should not remain fixed by statute.

Now that question, one must concede, is clearly before this Commission on the broad general principle that no rates perhaps should be in a fixed position, but ought always to be subject to control by some body which could take into consideration changing conditions. In support of that position, it is the Company's declared purpose to lead evidence to show that in 1943 the result of this grain traffic was less profitable or non-compensatory, as they put it. Now, when I came to consider the relevancy of such evidence, I had to review the situation which created statutory rates but what I think is being overlooked entirely is that this rate was the product of an agreement for which consideration passed to the Railroad, and in pursuance of which the economy of our country has developed and people have settled and people have taken a permanent position.

Now, that agreement, in our view, called for the granting of certain concessions in perpetuity; it did not call for the granting of those concessions so long as the Railroad could make money out of them. Now it is true and one is bound to say in all fairness that the original agreement was altered in 1925 by legislation, and some of the obligations undertaken by the Company were released, and others were imposed, but the effect of these obligations today is to ask this Commission to recommend to Parliament

that the Canadian Pacific Railway Company be released from all the obligations which it undertook under the Crows Nest Pass agreement, ^{under} and which it has had and enjoyed for years a consideration.

Now, if we are to undertake such an inquiry as that leading to that consequence at the expense of my clients, then we have to consider what the field of compensation ought to be, whether the inability of the carrier to fulfill his obligations is to entitle him to relief at the expense of the other party to the contract, and this should surely be tested by the whole of the elements of compensation that have accrued to the carrier out of the agreement - not just one year, not just two years, not just freight rates, not just revenue but all those accrued collateral advantages which have flowed to this Company over these years from that agreement; and on the other side, all of the benefits that we as settlers have had, all of the handicaps we have had from the ground of a non-competitive situation, in a large part of Alberta, and of the consequences of the east-west trade that has developed and the like.

Now, I am stating those in passing, and I want to come on to the thing that brought us here. Our letter to the Secretary of this Commission was a simple application for direction. Now, we do not think that an inquiry into the compensatory nature of these rates is in any way relevant to the settlement of the question, or the settlement of the principle, whether any rate should be fixed by Parliament, because in our view when you have considered whether they are compensatory or not in the broad view, you have contributed nothing to the solution of the principal question, ought we, as a matter of principle, to have any rate fixed by Parliament. It does not matter whether they are

compensatory or non-compensatory. It does not matter whether they, so highly profitable, should become temporarily a loss rate. The principle of whether there ought to be a statutory fixing of rates, does not determine, does not spring from their profitability; it springs from national considerations necessary in the development of the economy of the country, and in this case it springs from considerations for which value has been paid.

Now, our position is simply this; we are prepared to take our part in assisting the Commission in whatever field it chooses to cover. We are impressed by the fact that if there must be an inquiry into any of the compensatory characteristics of these rates, then we want to cover the whole ground, and to demonstrate that compensation has been received and is being received from sources from its current freight revenue. Now that is a major task. We are prepared to undertake it but we will have to have the time to do it. Our starting point, will, of course, be an examination of the material on which the Canadian Pacific Railway's conclusions are based. It will involve a review of the history and the revenue position of collateral advantages that have flown from the Crows Nest Pass agreement. These we are prepared to undertake but we must ask the Commission for the time to do it.

Now, as I say, our position is that such an inquiry cannot contribute anything to the solution of the principal question, namely, ought there to be Statutory rates. And on that account, in our submission, we think it unnecessary to undertake such a survey. However, if the Commission decides that that is a relevant matter, and relevant because the answer to it could be of use in answering the main question, then we ask simply for the

opportunity to prepare ourselves to meet the case which the Railway now proposes to present, and to present our case to you, our views to you, what may be said to be the compensation which has flown from this agreement.

MR. MILLIKEN: Mr. Chairman, I wonder if I might just say a word by way of clarification. I feel there is a little confusion in the fact that I said that the Saskatchewan Wheat Pool had not appeared before your Commission. Mr. George Robertson, the Secretary of the Saskatchewan Wheat Pool did appear before your Commission as a witness for the Government of Saskatchewan, dealing with the question of live stock. That organization which he represented is the one which I am representing today.

MR. G. F. HENDERSON: Mr. Chairman, I appear on behalf of the United Grain Growers, one of the oldest farmers' co-operative companies in Western Canada having some forty-two thousand farmer members and six hundred country elevators throughout the Prairie Provinces.

We take no position as to whether or not this Commission should embark on the inquiry but we do request, that if you do embark on the inquiry, that we have an opportunity to present a reply to the submissions made by the Canadian Pacific Railway in its brief, and that we have adequate opportunity to present evidence and to prepare ourselves for that inquiry, so that we may be in an adequate position to respond to the submissions made before the Commission.

MR. M. A. MacPHERSON, K.C.: Mr. Chairman, on behalf of the Government of the Province of Saskatchewan, I would say with Mr. Milliken and Mr. Porter, who have appeared on behalf of the Wheat Pools of Saskatchewan and Alberta, that while we have no fear of such an inquiry as is suggested, we feel yet that if there is to be an

inquiry, it must be an inquiry which is complete. I agree with them in stating that there is little question as to the powers of the Commission under the terms of reference to inquire into and to investigate into all transportation problems, including the question of the Crows Nest. We agree that the scope of the inquiry is in the broadest character, but we say this with deference, that the Commission should be guided, as it will be, in the national interest, and should only pursue such an inquiry as this if any practical result is to be anticipated; that is to say, the Commission will not inquire into the matter merely for the purpose of inquiry, but will inquire only if there are good and sufficient reasons advanced why an inquiry so laborious, so wearisome, and I suggest so fatiguing, should be embarked upon.

Now, the Province of Saskatchewan is more vitally interested in this matter of grain rates than any other province in Canada. The Province of Saskatchewan produces more than half of the wheat and perhaps unfortunately the province is in the position where its economy rests so largely on a wheat economy, and in our province we regard the Crows Nest rates as the very cornerstone of the social and economic security.

When, in 1919, the rates were suspended, there was a great measure of unrest and a great measure of agitation and a great measure of turmoil in Western Canada and in my own province in particular. There were many unpleasant public meetings and unpleasant resolutions, directed at the Canadian union, and that uncertainty existed and that antagonism, if you will, existed until in 1925 the Railway Act was amended, and when the people of my province felt that finally the question was settled, settled for all time and security guaranteed - and the best indication

I can give the Commission as to the reaction in that connection, is that since the passing of this amendment in 1925 ill-will vanished and there has not been since that time a situation existing such as existed during that period from 1919 to 1925 when there was this uncertainty over the Crows Nest rates.

It will be within the knowledge of the Chairman that from 1936 to 1938, he presided over a Commission that went into the matter of grain marketing in Canada, and I remember, as he will remember, sitting for weeks in Calgary and weeks in Regina and months in Winnipeg, and I refer to that only to say this, that while that was a period of black despair in Western Canada, there was no organization of farmers, there was no individual farmer who came before the Commission who complained about rates being too high. I think what was done was that it was pointed out the percentage which transportation bore to the fantastic price which was being paid for the product, but there was no complaint.

(Page 8410 follows)

As I have said, and I repeat, even in those dark days of grain marketing in western Canada, it was recognized that there was this economic cornerstone and that this was their assurance of security.

As Mr. Porter has said, we have before us in this brief reference to the experience of one year, and according to Mr. Carson this morning they have argued and he has argued that on that basis this Commission should make a finding. May I point out that the 1897 agreement was not drawn with anything but the long term picture ahead of it. May I point out that the 1925 amendments were passed in Parliament with the long term picture ahead of it and the very existence of a western agricultural state in a country that, while it produces what we feel is the best wheat in the world, at the same time is geographically removed from the purchasers of that wheat and condemned (if you will) to movement only by rail for a large portion of the distance and in an area where we have sought to maintain as high a standard of living for our people as is possible in competition with, for instance, Argentina where the same standard of living does not have to obtain.

So far as the agreement of 1897 is concerned, our friends refer in their brief to the fact that the rate is as low now as it was in 1897, lower than it was in 1897 for transporting wheat. I find that the signatories to that agreement in 1897 built better than they knew. It has covered a period of more than fifty years, taking into consideration the ups and downs in agriculture in western Canada. They do refer in this brief to the fact that the price of wheat today is double what it was when the agreement was passed.

That is true, but no farmer in western Canada today feels that there is any permanency in that price; and with rehabilitation of European agriculture particularly and world agriculture generally, we are back to a situation where the price factor and the question of surplus is one that will concern us and concern us very vitally indeed.

We submit that your Commission has been appointed for the purpose of investigating the problems of economic and geographical disabilities as they exist in this country. Canada is a great sprawling country. I do not know whether it was Sir John A. Macdonald or Sir Wilfrid Laurier who said it was a difficult country to govern, but whoever said it spoke the truth.

So far as we are concerned in western Canada we regard with complete unanimity the question of grain rates as having been settled and completely settled in the amendments of 1925. We agree that your Commission has the right to inquire into economic and geographical disabilities, but we say to you with confidence that this is one economic disability that has been dealt with and satisfactorily dealt with by Parliament, and that the history of the fifty years must be taken into consideration in determining whether or not that is so; that it would be unjust and unfair and unrealistic to proceed to deal with it on the basis of any one year. We say further in the matter of statutory rates, that it is a matter that must be left entirely in the hands of Parliament. We say that it is reasonably impossible to ask any regulatory body to deal with economic and geographical disadvantages and disabilities; that it is a matter for Parliament under our democratic process, and our western farmer is prepared and content to leave

it there because that is the forum which should and must deal with it, it is submitted.

Again I repeat, if our friends want to go into it at length we will go into it with them. We do not fear that eagle eye but we regard it of necessity as an investigation which would be most exhaustive if it is to be complete. My friends suggest that you can amend the statute, you should recommend amendments to a statute so vital to us merely on the basis of information that is given here. I suggest to this Commission that that is not realistic at all. I say that any one year's figures fail to establish the prima facie right to an amendment to the statute in a matter as important to so large a part of our community as western Canada and to the whole of Canada, when you remember the extent to which wheat and wheat products enter into the exports from this country. Our friends in Montreal and Toronto reasonably boast of the place that Canada occupies among exporting nations in the world, but deduct from those figures the products of western Canada in wheat and flour and you will see at once to what place Canada would sink as an exporting country among the nations of the world.

Mr. Porter has referred to other considerations. My friend says that the 1948 figures only should be taken. This Commission is recommending not for today but for tomorrow and the day after tomorrow, and in considering what is right some consideration must be had to what took place yesterday.

In the matter of the Crows Nest rates, in this brief our friends suggest that the consideration to them was \$3.4 million in money and certain lands and that 50,000 acres of these coal-bearing lands had been transferred to the Dominion. They have reasonably

qualified it as "certain lands" because it was millions of acres of British Columbia lands, but that was not the only consideration they had.

If the Commission will look at the map, for instance, attached to the submission of Canadian National Railways, you will see that today, as in 1897, our friends have a complete monopoly of rail transportation in southern Alberta, south of Calgary. That means something by way of compensation.

There is something else. There was denied, incidentally, I suggest to this Commission, denied to the American roads the right to use the border into Alberta, the right to divert traffic north-south or east-west; and that map shows the same situation today as in 1897. Is that not a consideration to our friends and to the company?

As a direct result of this operation, if you look at that Canadian National map again you will see they have control of the Kootenay area of British Columbia; you will see that they obtained the hauling of high grade ore traffic in the Kootenay area, and they have a monopoly over it. What is more and what must not be forgotten because it is part of the whole Crows Nest operation, ultimately they became the major shareholder of the Consolidated Smelters which on an investment of \$15 million last year returned them twenty one.

Those are considerations that I am putting to the Commission to indicate the ramifications of a complete inquiry, if inquiry is to be made; and an inquiry, if made, must be complete in every sense. Notwithstanding the general terms of P.C.6033, which is your authority, I am suggesting that it was not the intention of the Governor in Council that this Commission should go into

this matter in the detail that our friends suggest. There have been many commissions on grain and grain marketing since 1897 in this country, but not one of them has been charged on any occasion with the question of investigating the compensatory features or otherwise of Crows Nest rates. It has been regarded (and I say this as my final submission to the Board) it has been regarded through the years as continuing and absolutely settled national policy that western Canada should have guaranteed to her grain rates as provided in this agreement. I cannot over-emphasize the importance of these grain rates to the whole economy of the Province of Saskatchewan, and I must state the shock it would be to our people if there were any threat to the permanency of those rates.

I must submit finally that while we agree as to the power that this Commission has, we suggest to the Commission that no good, useful or practical purpose would be served by such an inquiry as is asked by our friends, and consequently that such an inquiry should not be proceeded with.

COMMISSIONER ANGUS: Does your argument deal with the suggestion that it might be useful to have this evidence for the purpose of perhaps considering whether it were desirable that the government should pay a subsidy if there were a difference between the cost of carrying the grain and the money received for marketing it?

MR. MacPHERSON: Well, the position we take and I want to make clear, is this, that we regard the question of the grain rates as fixed and settled; and if there is this question arising as to deficiency, as Mr. Commissioner Angus has suggested, then to establish that there would

have to be a complete inquiry and that would be a matter which would not concern -- I am speaking particularly for the man who pays the freight and saying that so far as he is concerned it would be disastrous to his position to have any change made in those rates at all. I am not impressed with this question that wheat today is reasonably high. I am reminded of this fact, that in 1919 when the rates were suspended, wheat, I think, was \$2.21 a bushel, the highest it had ever been in western Canada; but the threat to security, the threat to the future was what concerned our western farmers. It was not that he could not have paid another cent or two out of that \$2.21 in 1919, but it was because of the fact that there was the threat to his entire economic status in the country. That is why I take the position that I do on behalf of the man who pays the freight, that these rates cannot be or should not be interfered with.

COMMISSIONER ANGUS: I am sorry if my question was not clear, but I was considering the possibility suggested by one witness that rates might remain absolutely fixed as they are, but that the Board of Transport Commissioners might from time to time compute normal rates, and that the government might pay the difference in the same way that payments are made under the Maritime Freight Rates Act. Now if that were the possibility, it might be important for the purpose of considering it, to have this sort of evidence.

MR. MACPHERSON: Well, Mr. Commissioner Angus, you will realize the limitation of counsel for a government under circumstances such as these. The direct question that you asked me is pertinent, but the direct question that you asked me involves a matter of policy on which naturally I would not be prepared at the

moment to give a statement to the Commission. I mean, in the very nature of things there is policy, and high policy, involved, and I am the counsel and will have to refer the matter and be instructed upon it before I could answer directly a question as pertinent as that.

COMMISSIONER ANGUS: Once again, Mr. MacPherson, I was not asking your opinion of the merits of that suggestion, but saying that if the Commission were considering that matter would it be relevant to have this evidence?

MR. MACPHERSON: Well, I think probably that is for the Commission to decide. I say that, not facetiously, not lightly; I say it because I am speaking for my own people who are concerned primarily with the maintenance of the rates. My fear in connection with that is this, and I go this far on a limb if I may. My fear in that connection is that subsidies have a chance or may not always be permanent, and I am so concerned that power over these rates be not delegated to any regulatory body but be left with the forum of Parliament. I would fear a situation where there might be such an increase as the Commissioner has indicated, and then, for instance, the subsidy removed and the grain grower and the industry bearing the responsibility of the increase. I am thinking primarily of the history of our country, its ups and downs from 1897, its good times and its bad and what the industry can stand and its people survive. I can only add, as I have said before, that I think the signatories to the agreement of 1897 in arriving at these rates builded better than they knew.

MR. PORTER: Mr. Chairman, if I may take some part in the financial question that Professor Angus has

stated, I would like to, because I do not suffer the disability of representing anyone at a political level, and the problem of political policy does not interfere with the position which my people take. It is very simple. We bought and we paid for these concessions, and we expect these people to pay their bit. If they have not the money because of some circumstances which are not our concern, then we do not care whether they get it from the taxpayer or wealthy friends or by popular subscription, but we do not want to be the recipients of a subsidy because we are not prepared to go further into this question of subsidies which we think can very seriously disrupt our whole Canadian picture. We want to be in a business that we think, however discreetly, can stand on its own feet. I would say as clearly as I can, and I welcome the opportunity that the Professor has given, that the grain growers that I represent do not want a subsidy, and particularly they do not want a subsidy for the railroads in the name of a subsidy for wheat.

THE CHAIRMAN: Anybody else?

MR. FRAWLEY: Mr. Chairman and members of the Commission, we have been asked to discuss with the Commission the extent of the inquiry which the Commission should take in connection with Crows Nest rates. I assume that we would not be here discussing the matter with the Commission this morning except for the attack made by the Canadian Pacific Railway upon those rates in the brief which they have filed on 12th October.

The basis of the Canadian Pacific attack is that the rates under present conditions are not compensatory. It deals with some other matters, but those are minor. The Canadian Pacific contends that there was in 1948 what

they call a dollar deficiency from Crows Nest running between \$13.7 million and \$16.9 million. That is to be found at page 188 of Part I of their brief.

I venture to say that if the Commission were to dispose of this entire matter by rejecting the contention that there was a dollar deficiency, but at the same time recommending that the grain rates be taken out of the statute and put under the jurisdiction and control of the Transport Board, the Canadian Pacific would be wholly satisfied -- satisfied to the point of exultation. In other words, the principal submission of the railway before the Commission is that the statute must be repealed. The contention that the rates are not compensatory is in every sense quite secondary and subsidiary: it is merely a stepping stone to the ultimate goal, the repeal of the statute.

In my submission, Mr. Chairman, the Commission could never arrive at a proper conclusion concerning the advisability of the repeal of this statute if it confines its examination to the kind of evidence which the Canadian Pacific, by its brief at pages 151-189, indicates that it intends to introduce if it is allowed to do so.

I can only add to that that I am amazed that the Canadian Pacific should be so bold as to ask for this far-reaching recommendation following upon an analysis of one year, and so naive as to think that the perfunctory treatment which they have given the matter in the brief is an adequate treatment.

In my submission, Mr. Chairman, before the Commission can properly reach any conclusion upon the application of the Canadian Pacific to repeal the statute, many, many more subjects will have to be examined than

the considerations presented in the Canadian Pacific brief.

I want to deal first with the narrow question that the rates themselves are not compensatory, and then pass to some larger and far more important considerations. First, we would have to have an opportunity, those of us who oppose the application of the railway for the repeal of the statute and who oppose the contention that the rates are not compensatory, we would have to have an opportunity first to examine critically what is called the "voluminous working papers", and I refer to page 189 of the Canadian Pacific brief, as well as some other matters as our advisers might require. Certainly, we would have to have an opportunity to examine the profitability of these rates, not for the year 1948 alone, but for each of the years since the rates have been in effect, after having examined and had due regard for the many improvements in the technology of moving grain through those areas. Further, we would have to have full opportunity to study and then present substantively to the Board what in our submission should be the correct method to adopt in costing the movement of grain, as opposed to the methods proposed by the Canadian Pacific.

Merely by way of illustration and to illustrate to the Commission in passing two errors which do appear in the Canadian Pacific's formula (if I may call it that) I would like to call attention to page 182 where the Canadian Pacific makes this statement dealing with the question of the return on investments, and they say this:

: "The judgment of the Board of Transport Commissioners in the 21 per cent case allow an amount

for fixed charges, dividends and surplus equivalent to 5.2 per cent on the depreciated investment in Canadian Pacific railway property."

The fact is that the Canadian Pacific has never proved to the Board of Transport Commissioners the amount of its investment in railway property, whether it be depreciated or not depreciated. In the so-called reviewing cases the railway sought rate increases on the basis of their requirements for operating expenses, fixed charges, dividends and surpluses, but the Canadian Pacific has yet to prove- (and the records of the Board are there),-the Canadian Pacific have yet to prove before the Board of Transport Commissioners what is its investment in transportation property. The reason I call that particular fault to the attention of the Board is that it is an important figure, that 5.2 per cent, because they carry that out into their further calculations. I point out to the Board at this time that there has never been established what is the rate of return, indeed what is the depreciated or non-depreciated investment in railway property.

Now, the importance of that is this, that if it be important to know what the Canadian Pacific should earn in terms of the rate of return on its investments, then this Commission has ahead of it the task of embarking upon a subsidiary inquiry to determine what the Canadian Pacific has invested in railway property, and that inquiry alone would take many, many months.

Now, so much, Mr. Chairman, for a very brief statement as to what more would be required upon the narrow question of the compensatory nature of the grain rates, but larger and far more important considerations would need to be examined. In my submission the

Commission would also be required to extend its inquiries and reach conclusions upon the effect to all parties of all the terms and all the conditions of the Crows Nest Pass agreement. It must be remembered that the grain rates were an obligation assumed by the Canadian Pacific, but those obligations were paralleled by benefits.

I want to run over, only very quickly, what the nature of those inquiries would mean. First, there would need to be an inquiry as to the amount received by the Canadian Pacific under section 1 of the statute of 1897, and that particular inquiry need not be very extended because the Canadian Pacific says it received \$3,404,720. That is to be found on page 154.

(Page 8430 follows)

Secondly, there would need to be an inquiry as to the location and extent in acres of the non-coal-bearing lands of the kind referred to in section 1, paragraph (h) of the 1897 agreement -- that is to say, lands acquired by the Canadian Pacific as a subsidy from the Province of British Columbia. Along with that there would need to be an inquiry as to the amount of timber and minerals in or upon the lands acquired under paragraph (h), and there would need to be further inquiry to ascertain the moneys or other considerations received by the Canadian Pacific from the disposition of such lands, such timber and such minerals, in accordance with the regulations of the Governor in Council, all as provided for by paragraph (h) of section 1 of that agreement.

Thirdly -- and this is of particular importance -- there would need to be an inquiry also as to the location and extent in acres of the coal-bearing lands acquired by the Canadian Pacific as a subsidy from British Columbia; and it is to be noted from the provisions of paragraph (i) -- and it was under the provisions of paragraph (i) that reference is made to the coal-bearing lands which they received from British Columbia as a subsidy -- under that paragraph the coal-bearing lands were conveyed back to the extent of 50,000 acres. Probably I should not say "back"; they were received from British Columbia, and 50,000 acres were conveyed to the Government of Canada. They were to be 50,000 acres of equal value with such coal-bearing lands left in the hands of the Canadian Pacific after such transfer to the Crown.

I want to call to the Commission's attention that that paragraph relating to the coal-bearing lands contained no requirement that they should be sold to the public, and inquiry would need to be made as to what dis-

position was made of the coal-bearing lands which they received from the Province of British Columbia and what monetary benefits were derived from such disposition. The mere mention of that inquiry, my lord. opens up avenues of investigation which would be extremely interesting, and of course valuable to the Commission when determining this very important application from the Canadian Pacific that that statute be repealed.

Then, fourthly, as to each of those classes of lands, both the non-coal-bearing lands and the coal-bearing lands, there would need to be inquiries as to the acquisition from British Columbia of lands both coal-bearing and non-coal-bearing, with timber and minerals which accompanied the non-coal-bearing lands, by other companies, by other companies with whom the Canadian Pacific had, in the words of the statute, any arrangement for constructing any part of the Crows Nest line. Those inquiries would be with a view to determining the extent, if any, to which the Canadian Pacific secured any benefits from the acquisition of such lands or minerals by such other companies.

Fifthly, there would need to be a study of the economic benefits which accrued to the Canadian Pacific as a direct result of the monopoly of rail communication from Lethbridge through the Crows Nest Pass to Nelson, which it had secured by virtue of the agreement. The entire mineral production of that area has been the exclusive property of the Canadian Pacific since 1897, both as to originating and terminating traffic.

Sixthly, there would need to be an inquiry into the monetary value to the Canadian Pacific of the release granted in 1918 to the Canadian Pacific from its obligation to carry farm machinery, grain and fresh fruits, coal oil,

cordage and binder twine, iron including pipe, nails, wire, window glass, building and roofing paper, roofing felt, paints and oils, livestock, woodenware and household furniture, all of which commodities were agreed to be carried westbound at varying percentages of the then existing rates charged by the Canadian Pacific.

Seventhly, there would need to be an inquiry into the extent of the dollar effect upon the Canadian Pacific revenues caused by the provisions of the amendment of 1925, which extended the Crows Nest rates on eastbound grain to all points on western lines.

In addition to a consideration of the compensatory nature of the grain rates themselves and a consideration of the benefits and obligations flowing from the agreement, attention must be drawn to the effect upon the Western Canadian economy of repealing the statute, which I am sure is a matter which would receive careful consideration from the Commission. The economic and political implications of the present grain rates in Western Canada are of crucial importance to the whole of Canada. The rates which the western farmer is now paying upon his grain -- and a good deal of it comes to Eastern Canada for someone -- are just and fair in terms of the ability of the farmer to pay them. Under no circumstances should the farmer of Western Canada be called upon to pay higher rates than those presently in effect.

Now, my lord, the foregoing observations were made with the intention of conveying to the Commission the very considerable extent of investigation which is still required if anything is to be done except to reject the application of the Canadian Pacific and leave everything in statu quo. If the Commission feels that any investigation is warranted, then it must be an investigation for

which we as upholders of the present state of affairs must be given full opportunity to prepare.

Now, my lord, it is only fair to ask, should the Commission embark upon such an investigation? My only answer to that question is, no. It would be unduly long, it would in my submission unduly delay the many other important recommendations which I am sure this Commission will make, and it would be futile if the result of the investigation -- and it must be, in my submission, of the particular and extended kind that I have indicated -- if the answer were that the grain rates were compensatory, then we would have been through the many months of investigation to no purpose. And if it should be that there was a finding that the present rates were compensatory, would it then automatically follow that the statute should be repealed and the rates sent to the Board of Transport Commissioners? In my submission, no. This statute cannot be repealed, because it far transcends the mere fixing of rates. It is the basis of the farm economy of western Canada. If the farmers of western Canada now enjoy favourable rates for the carriage of their export grain -- and it is only export grain which is involved -- the farmers of Alberta still pay or the receivers in British Columbia still pay twice as much for the domestic grain going down to British Columbia; but if the farmers of western Canada do enjoy favourable rates for the carriage of their export grain, it was because the Canadian Pacific was willing to accord those rates so as to build up an economy in western Canada which would furnish traffic to the railway. It was the whole basis of the building up of the farm economy of western Canada, and upon the farm economy was built all the other strata of the economy which we have to-day.

Now, what has happened? After fifty years of that rate, which has become of the very warp and woof of the economy in western Canada, after fifty years of that, what has happened, that the Canadian Pacific should seek to destroy the house in one recommendation that the statute be repealed? What has happened? A suggestion that in one year the rates have not been as profitable as they might have been.

If the Canadian Pacific Railway feels that that statute is a hardship upon them, let them go to Parliament and discuss it with Parliament, where other people could also partake in the discussion, and then in Parliament all of the considerations which entered into the original agreement, the settlement in 1935, the profitability throughout the years, and all of the matters which I am now discussing, could be very well and very conveniently brought to the attention of Parliament; and I join with my friend Mr. Milliken when he says that it is fantastic for my friend Mr. Evans to say that this is the only forum, and that he has waited since 1897 for this Commission to be set up so that he could have a place to protest against these grain rates. My friend said this was the only forum; as far as I am concerned, the door of Parliament has been open to my friend since sometime in the month of July, 1897.

Now, my lord, I may as well say at once that I have no instructions from the Government of the Province of Alberta to ask for a subsidy to move the grain of western Canada, so that position is clear. If there is to be any consideration given to a set of circumstances which might emerge after the kind of investigation has been had that I suggest should be had, if there is any consideration to be given to the question of subsidy

at that time, then I may have some instructions to say something at that time. At the present time I have no instructions to ask for a subsidy, and I associate myself completely with what my friend Mr. Porter has said: we are not asking for a subsidy to move our grain in western Canada.

The Canadian Pacific Railway has received enormous benefits from the operation of the Crows Nest Pass agreement, and those benefits must be weighed before one rushes to a hasty conclusion from the result of the hauling of that grain in the twelve months which make up the year 1948.

This Commission was appointed on the 29th of December, 1948; it has been in continuous session since the 2nd of May last. The Canadian Pacific Railway elected to delay until the 12th of October in bringing this very important question to the attention of the Commission. I hasten to add that in the outline brief there was an implication that the grain was not being carried at a profit, that the grain was being carried at a loss; there was an implication in the outline brief, and that was received, of course, a good long time before the 12th of October, but it was on the 12th of October that my friends put forward this bold proposition that they were losing money in 1948 to the extent of thirteen million dollars.

The Canadian Pacific would have themselves only to blame, my lord, if the Commission rejected out of hand the case that they endeavoured to make for a recommendation that the statute be repealed, a conclusion which in my respectful submission this Commission should reach. The Canadian Pacific would then be free to discuss the matter in Parliament, where, in my view, they should be left to go.

THE CHAIRMAN: Anybody else?

MR COVERT: Mr. McLean.

MR McLEAN: Mr. Chairman, speaking for the Province of Manitoba, I realize that a good many of the arguments, perhaps most of the arguments, on this side of the house have been made, but I am instructed to emphasize on behalf of the Province of Manitoba certain points which we think are extremely important.

First and foremost, it is Manitoba's submission that grain rates must remain under the control of Parliament. In our view an academic principle of statutory rates does not arise. It is the practical question or principle, should the proviso in sub-section 5 of section 325 of the Railway Act be repealed or amended? That is not an abstract principle, but a practical fact of Canadian public policy. We consider that grain rates are such a factor in the Canadian economy that they must remain under the direct control of Parliament. Parliament has a responsibility for determining Canada's major economic policies, and it is our submission that Parliament must retain control over this fundamental matter -- fundamental to the whole economic life of western Canada, and indeed Canada as a whole.

Further, we submit that grain rates -- and we think we can establish this -- have been extremely profitable in the past, and have returned substantial profits to the C.P.R. over a very long period of time. The mere fact that the C.P.R. claims that grain rates were unprofitable in 1948, we submit, is no justification for this Commission recommending any change in these rates. We believe further that we can establish that these grain rates over a long period of time have enabled the C.P.R. in western Canada to earn substantially more profits than they have earned in eastern Canada. We further say that, even if grain rates

did not provide in 1948 a profit, even if they were non-compensatory in a wider sense, it is our submission that the interests of Canada as a whole are such that they should remain under present control. This stems from our submission that the economic wellbeing of Canada requires the rates to be retained in force. We do not think that present price levels afford any argument for the amendment of these rates.

If an examination is to be undertaken by your Commission with respect to the profitability of the grain rates, an examination which is limited to one year, as in the C.P.R.'s study, is of no value, in our submission, whatsoever, in determining what should be done from the point of view of the over-all national interest.

Other counsel have dealt very fully with this point, and we concur in their submissions as to the extent of the inquiry which would be required.

If this Commission decides to consider the C.P.R. evidence, to examine the brief and to hear witnesses, then it is imperative, as other counsel have said, and we say, that we must have sufficient time to meet the case; and, furthermore, sir, it would be necessary for us to have data for this purpose. We do not feel that we would be in a position to meet this case, and we are so advised, before April 1st.

I think we in Manitoba should make our position quite clear. I refer to the transcript at pages 78 and 79. We have maintained and still maintain that grain rates, even at today's costs, provide an adequate return to the railway.

We are satisfied that, taking all matters into account, this Commission must come to the conclusion that the matter must remain with Parliament. It follows, if

that conclusion is reached, that no purpose would be served in making the detailed investigation which we believe will be necessary for an adequate inquiry.

I think there is nothing further I have to add.

MR COVERT: Does any other counsel wish to add anything before the reply starts?

MR PORTER: May I say that, while there has been an exhaustive list of the things that might have to be inquired into if the compensatory nature of these rates is to become in issue, I think I omitted to say that we would expect that the inquiry would also cover the ground of the efficiency of the operation of the road in the conduct of this business, inasmuch as in essence the application is one to be relieved of a job for which they have already been paid because they cannot do it now properly; so whether they are doing it well would be in issue, and would of course involve an inquiry into the efficiency of the operation.

THE CHAIRMAN: Mr. Carson, have you anything to say?

MR CARSON: Mr. Chairman, in my submission, very little if anything that has been said by my friends has been directed to the question that was to be debated this morning. A great many arguments have been presented that might be relevant to the final argument in this case -- that is, as to whether or not the recommendation should be made -- but the question that we were asked to discuss this morning is whether the Commission should make an inquiry into the compensatory nature of the grain rates, and that involves the question as to whether our evidence should be received.

Looking at the summary of the submissions on this subject, at page 188 of the brief, the Commission will see that these arguments have been directly almost entirely

to every other single head except head 3, that is:

"Under present conditions, the 'Crow's Nest' level of grain rates is not compensatory."

In head 1 we say:

"In fairness and equity, these rates should be regulated in the same way and by the same tribunal as rates on other traffic."

Now, there is a great deal to be said in support of that, Mr. Chairman, and we have not ventured to open up that question this morning, but our friends have.

Then a great deal has been said about national policy, and that, in my submission, is not a pertinent subject for discussion this morning. I think it was Mr. Frawley who emphasized that we should go to Parliament and discuss with Parliament all of these considerations. Now, Mr. Chairman, could there be anything more futile than to attempt to have a discussion of the compensatory nature of grain rates in Parliament, or even before any committee that Parliament appointed? Surely the Governor in Council, because of the very complexity of the problems that are facing the Government these days, appointed this Commission to inquire into these matters, and in my submission this Commission is the forum and the only appropriate forum, indeed the only available forum, where any such question as this can be inquired into.

It has been emphasized by some of my friends that this is a matter of policy, national policy, and therefore this Commission should not inquire into it. Well, the very terms of the Order in Council, in my submission, invite the assistance of this Commission to the Government on such questions of policy. No one has taken the time to refer to that Order in Council in the discussion we have had this morning, and I do want to refer

briefly to it:

"The Committee, having taken cognizance of the aforesaid representations, has come to the conclusion that it would be in the public interest that an inquiry be made into the matters involved in order that all questions of economic policy within the jurisdiction of Parliament arising out of the operation and maintenance of national transportation, may be examined and reported upon."

Now, could anything be broader than that? If we went up to Parliament to-day and asked them to hear us about the compensatory nature of the grain rates, what would we be told? Would not we be told very plainly that that was a subject that had been referred to this Commission, and that Parliament was expecting this Commission to give it its advice on that subject?

Then let me read paragraph 2(a):

"That, without restricting the generality of the above terms of reference, the Commissioners should in particular:

"Review and report upon the effect, if any, of economic, geographic or other disadvantages under which certain sections of Canada find themselves in relation to the various transportation services therein, and recommend what measures should be initiated in order that the national transportation policy may best serve the general economic well-being of all Canada." --
all Canada, all the shippers of Canada.

Mr. O'Donnell I thought drew attention to a very pertinent matter this morning when he pointed out to the Commission that if there is a deficit in respect of the grain traffic, it means that the other shippers of Canada

are bearing a heavier burden than they should otherwise bear. The general economic well-being of all Canada extends to those other shippers, and those other shippers, in my submission, have the right to expect, if I may say so with respect, that this Commission consider whether they in effect are bearing a heavier burden than they should otherwise bear.

Then my friends have suggested that an inquiry would have to be made into all the compensatory results of operations in every year since 1897. Well, of course, that is utterly absurd, in my submission, because this submission of the Canadian Pacific is particularly made under paragraph 2(f) of the Order in Council, where the Commission is asked to "Report upon any feature of the Railway Act, (or railway legislation generally) that might advantageously be revised or amended in view" -- of what? -- "in view of present-day conditions."

In my submission, all that has been said this morning about the benefits or obligations, benefits received or obligations imposed upon, the Canadian Pacific by that agreement in 1897 is utterly irrelevant to the question of whether this Commission should hear this evidence and whether the Commission should inquire into the compensatory nature of the rates under present-day conditions.

Now, a great deal has been said -- and probably Mr. Frawley deserves credit for making it look at its worst -- as to how much time this is going to take and all the subjects into which this Commission will have to inquire.. My lord, that is nothing more than an in terrorem argument, in my submission, and I would not expect this Commission in the least to yield to any argument that sought to drive them away from a duty under the Order in

Council, because, while it would take some time, I am perfectly confident that it would not take anything like the time that is suggested in the arguments you have heard.

Then Mr. Milliken in his very moderate presentation referred to a resolution that was passed by the 168 delegates that met in Regina last week, where they recommended that these rates be not increased but remain in the control of the Parliament of Canada. Well, that is all right, but that is the very question, the very question that we are asking this Commission to decide, under paragraph 2(f) of the Order in Council.

Then Mr. Porter spoke about the rate being the product of an agreement for which consideration passed to the railway, and then he went on to elaborate that at not too great length. All I say about that is, it is not relevant to the question that the Commission is hearing debated this morning, that is, as to what evidence should be received. Something like that might be said on the final argument.

Then Mr. Porter further went on, that whether these rates should be amended is a matter of national policy. Now, I cannot emphasize too strongly that by the very terms of the Order in Council the Governor in Council has invited the recommendations of this Commission on the very matter of national policy. The in terrorem argument had some very serious adjectives -- by Mr. MacPherson, laborious, fatiguing -- but perhaps there is no more vital issue before this Commission to-day than that of these grain rates, and my friends are putting up every kind of argument that could possibly be hauled out of the locker, in my submission, to drive this Commission away from making an inquiry.

Now, imagine what position might be taken if,

without making this inquiry, the Commission should recommend to the Governor in Council that the proviso be repealed. Then would not my friends howl to high heaven, if I may say so, that this Commission had made such a recommendation without inquiring into whether the grain rates were compensatory or not. Now, imagine that!

Almost every note that I look at as I review them now relates to questions that might be argued, or some of them at any rate, on the final argument, but in my submission the point that your lordship asked to have argument on this morning has not been met, and it is not met at all by these suggestions as to how long it may take, or by the long list of things that Mr. Frawley puts forward as to what the Commission should inquire into. In my submission, the Commission would never think of inquiring into what benefits the Canadian Pacific received in the early days of this agreement. And, having regard to the terms of the Order in Council, under present-day conditions, having regard to present-day conditions, what is the recommendation that should be made? And assuming that the Commission heard the evidence, as I urgently urge them to hear it, and made a finding on that evidence, and hearing any evidence that is relevant on the other side, relevant to that question -- not all these things away back in the mothballs -- if they heard the evidence and made the finding, then nobody is hurt, because we are not asking to have this Commission fix the rates; it is referred to the Board of Transport Commissioners, and the Board of Transport Commissioners then decide, if the rates are not compensatory, as I hope this Commission would find, what is a fair rate for the grain traffic to bear. Again, I am not entering into the argument or the issues that would be appropriate on the final argument; I am only directing what I say to the single question of whether this evidence should be received. (Page 8450 follows)

I urge the Board to permit this evidence to come before them, because the Canadian Pacific, as the brief indicates, have gone to the greatest trouble and expense in having this study prepared, and my friends have had plenty of warning that this was coming. Back in June last year, June 9th 1949, Mr. MacPherson wrote to Mr. Evans as follows: "Relevant to the question of Crows Nest rates" - and the Commission will remember that by this time Mr. MacPherson had the detailed submissions which are quoted at page -

MR. MACPHERSON: What detailed submissions?

MR. CARSON: The detailed submissions by the Canadian Pacific. By that time the Commission was under way; it was travelling out west. The detailed submission was filed on the 12th of May, Mr. Chairman, and I just draw the Board's attention to what is said in two cases there, that is on page 151 of our Part 1:

"80.Canadian Pacific submits that it is desirable that freight rates in Canada without exception should in all respects be subject to the jurisdiction of the Board of Transport Commissioners.

81.It is recognized that the national policy may require special assistance to the producers of grain in Western Canada, but Canadian Pacific submits that any relief given in this respect should not be at the cost of other users of railway services or of the railway companies."

Now, with that in front of him, Mr. MacPherson wrote on the 9th of June relevant to the question of the Crows Nest rates and the position which the Canadian Pacific Railway Company took in respect thereof.

"Relative to the question of Crows Nest rates and the position which Canadian Pacific Railway Company

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is taking in respect thereof, we would refer to the conversation in Winnipeg as between yourself, Mr. Frawley, Mr. Shepard and the writer. You can quite realize that if this issue is raised, we, representing the Prairie Provinces will of necessity need to ^{be} forewarned so that it may be adequately dealt with from our standpoint. We are particularly concerned in knowing whether the position will be taken by you that the Rates as now fixed are not compensatory.

We trust you will advise us just as soon as you have come to a decision in this matter and we very much trust that you will arrive at a decision shortly."

THE CHAIRMAN: What is the date of that?

MR. CARSON: June 9th, Mr. Chairman. Now at that time as you will remember, we were travelling in the west and Mr. Evans as soon as he got back to his office on July 5th wrote to Mr. MacPherson as follows:

"Kindly refer to your letter of 9th June.

As you know, some of the briefs presented to the Commission in British Columbia dealt with the matter of Crows Nest Pass grain rates. Mr. Frawley and I discussed the matter and it seemed apparent to us that the Commission would be making some study of Crows Nest Pass grain rates. I also note that this is one of the items on the list of studies which accompanied Mr. Hunter's letter of June 10th, 1949.

The Canadian Pacific will submit at the Ottawa hearings that grain rates should not be fixed by statute but should be under the jurisdiction

of the Board of Transport Commissioners. The Company will also introduce some evidence regarding the return to the Company from grain moving at the Crows Nest Pass basis.

I am sending copies of this letter to Messrs. Frawley and Shepard. "

Now at that time, the study was well under way, Mr. Evans did not know the result of it. He told them very plainly that they were instituting investigations regarding the Crows Nest Pass rates. With reference to Mr. Hunter's letter on July 10th 1949, it was addressed to Mr. Evans and included the list which was headed "Outline of Projected Submissions on Transportation" and Item B (4) was the Crows Nest Pass rates, so that the study was already under way at that time and plenty of warning was given to my learned friends that evidence of that nature was to be presented.

Then Mr. MacPherson, just to complete the correspondence wrote to Mr. Evans under date of August 31st 1949:

"Referring to our correspondence, you suggested that you had a conversation with Mr. Frawley relative to Crows Nest rates, and relative to who should ascertain or determine whether they were compensatory or not. It was suggested in your last letter to me that Mr. Frawley had agreed that this should be a matter for The Turgeon Commission to undertake on its own.

As you know, I was not East with the Commission and only recently had the opportunity of seeing Mr. Frawley, and understand from him that he certainly did not agree either

on his own behalf or on the behalf of any one else that the onus should be on the Commission to ascertain this, or that there should be any inquiry in this connection.

I am only writing you in order to clear the situation having regard to the reference you made to the conversation with Mr. Frawley."

Now, all I am saying is that this correspondence shows that as far back as, well certainly as far back as May 12th when the outlined submission was filed, it was made abundantly clear what the position of the Canadian Pacific was going to be with respect to statutory rates, and these Crows Nest rates came into the forefront in correspondence to which I have referred. That is an answer to Mr. Frawley's suggestion that the Canadian Pacific elected to delay until November 12th bringing into the forefront the matter of the Crows Nest rates, and indicating that evidence would be given as to the return received from those rates.

MR. FRAWLEY: That is not just what I said, Mr. Carson.

MR. CARSON: Well, the correspondence speaks for itself.

MR. FRAWLEY: What I said is on the record.

MR. CARSON: Yes. Now my lord, I think that having heard so little as we have heard from our friends as to the point that you directed our attention to this morning, there is really nothing more I can add to it, because so little has been said that really deals with that point.

MR. EVANS: I have a very short addition to make. On the question of form, Mr. Milliken suggested that there was a form available. Mr. Carson dealt with one aspect of that argument but I would like to point this out.

When we get down to the real issue here my Company has never at any time suggested that the advantage of the Western farmer or the need of the Western farmer should not be dealt with. Now in substance, there is an attempt to create the impression that the Canadian Pacific is trying to take away that advantage. Now when it gets down to reality, the fear that my friends have expressed here today is the fear of the very form taking away any subsidy and that is the form they are asking us to present our case on grain rates in. Now to me, the position is inconsistent. They would not be here today arguing about this matter, solely because of what is in our brief. They are afraid of what Parliament may do to them when they come to Parliament and ask for a subsidy.

Now then, the other question. What is in issue in this argument? It is a very simple issue; it is whether we be allowed to introduce evidence that under present conditions, that is to say in 1948, the grain rates were not compensatory. Now how does that possibly involve my friends in any difficulty? If that is the issue, they can meet it. They do not need to be saying it was compensatory in 1904. Now the issue is a narrow one. Now these suggestions and these inquiries that are going to have to be made, do not arise at all merely because the Commission can decide or not whether they are going to hear evidence that in 1948 the rates were not compensatory. It seems to me that is what has been overlooked by our friends.

Now then, I think it was Mr. Porter who dealt with the question as to whether this was relevant and he said that in his view it was not relevant. Now then, I think there is no doubt that it is relevant but then he goes on to say that even if it is relevant it could produce no useful result to have a determination that the 1948 conditions showed

that the rates were not compensatory. He is free to argue that; he will argue that but why should that have anything to do with whether this Commission should receive the evidence or not?

THE CHAIRMAN: Any one else?

MR. O'DONNELL: Might I say one more word, my lord. Since the inception of the Commission representations have been made asking, among other things, for an enlargement of the Board of Transport Commissioners' powers, an adjustment of the present rates, the removal of regional differences, and a number of matters of that kind which, in my view, are all tied in together and it would seem that the Commissioners could scarcely make representations about such matters, without knowing the benefits which are derived from the present setup of all the regions of the country, when they are attempting to weigh the disabilities under which any of these particular regions may be operating.

Now at this point it would seem that there is not any necessity or any question necessarily of the establishment of rates on Western grain which would be in excess of the Crows Nest rates. The question at this point is merely to see what those rates are producing at the present time by way of revenue, and in order to determine what the alleged economic, geographic and other disadvantages that are set out in Order-in-Council P.C.6033 may be. It would almost seem to be something that might be reviewed to see what exactly the benefits in any particular regions are, and with respect to this particular matter what the benefits in Western Canada resulting from the grain rates may be.

Now, when I suggested this morning earlier that the position was that if grain rates were lower than they should be, that other classes of traffic and other shippers might be required to make up the deficiency or that the taxpayers

at large are required so to do, I was not enunciating anything novel in so far as I am concerned. In the Sircois Report these matters were discussed at some length and I would, with respect, refer the Commission to Volume 2, that containing the recommendations, at pages 193 and 199. At page 199, when the Commissioners there are concluding their views on the freight rate structure which they deal with in chapter 1, they make these remarks:

"The present balance of regional railway rates is the outcome of adjustments over a long term of years made voluntarily by the railways or under the direction of the Railway Board. The possibilities of this procedure are not exhausted. The review at intervals of the freight rate structure as it affects particular regions or the whole Dominion, has had useful results in adjusting revealed inequalities as far as it is practicable to do so. This Commission makes no specific recommendation but it suggests, having regard to the length of time that has elapsed since the last general inquiry, the change in conditions due to the increased range and effectiveness of alternative means of transportation and the increasing signs of a revival of regional questioning as to the justice of existing structure, that the present might be an opportune time to have a review of the railway freight rate structure on a Dominion-wide scope."

Now, the justice of the existing structure is seems to me, could scarcely be determined by looking at only one part of the structure, and the Commissioners had previously, at page 193, said this regarding the Saskatchewan submission:

"The Saskatchewan submission is the restatement of a long-standing complaint of the Prairies - that the rates on freight in identical classifications differ between the Western and Central regions to the advantage of the latter".

Now, that is the same thing which is being presented here - the classifications are discussed, the level of rates are discussed as between east and west and so on -

"Whether or not this^{is}/a well-based complaint depends chiefly upon the answer to a question to which we have already given some attention. If grain which constitutes a high percentage of the freight moved by railways in the western provinces is carried at unremunerative rates the case, as set out in the Saskatchewan brief, is obviously affected by that fact. A comment upon variations in regional rates due to differences in the character of the freight handled: - 'Whilst it has not been possible to devise any suitable criteria with which to test the relative regional incidence of railway rates, because of lack of appropriate data, it may be said that the rates on primary products have been consistently low and consequently such as to promote rather than discourage regional development. It may also be said that there has been throughout Canada a tendency towards rate equalization in a downward direction under which many of the factors which were formerly considered as justifying difference in rates, are being disregarded. The possibility of

a complete equalization in a downward direction of the higher class rates necessitating a higher level for rates applicable to primary products should not be overlooked. In this latter connection, it may be said with reasonable accuracy that the average revenue received per ton mile for the railway haulage of wheat is somewhat over 700 miles, the average revenue per ton mile is only about half that received for all railway traffic. The theory upon which railway freight rates is based demands that consideration be given to the relation between low and high grade traffic, otherwise there would be no way of compensating for the failure of the low grade traffic to meet its full share of the cost of the whole service rendered. In other words a region whose traffic consisted of a large percentage of low grade traffic moving at very low rates, and small percentage of high grade traffic ought to expect to be charged a relatively higher rate on the small percentage of high grade traffic than a region where the high and low grade traffic maintained an even balance.'

"This opinion gives support to the contention made to us, to which attention will later be drawn, that for rates on low grade freight, where these are not remunerative, the railways must either make up the losses by steeper rates on freight in the higher classifications, or look to the public treasury for compensation."

Now, that is the end of the extract I had in mind.

Your Commission, Mr. Chairman, and members of the Commission

have to look at the entire picture and while, as I have said at the outset, we have made no submission with respect to this particular matter, it does occur to one that it might be profitable in weighing the geographic disadvantages of one area, to look at the advantages which the area has, and in those years where there are advantages they must be balanced off against the disadvantages in order to get a true picture. In those circumstances it occurred to me that I should merely draw to the attention of the Commission, the aspect of that problem which was envisaged by the Sirois Commission.

THE CHAIRMAN: Mr. O'Donnell, you say this Commission should look at the entire picture. One of our difficulties is that you gentlemen do not agree among yourselves on what is the entire picture.

MR. O'DONNELL: That is quite right, my lord.

MR. MacPHERSON: I have just one word. My friend Mr. Carson referred to correspondence that had passed between Mr. Evans and myself. I would be equally glad to have the Commission consider the correspondence, the three letters as filed, and in their entirety, but when he suggests that they constituted a warning as to what is in this document, Part 1, then I leave it to the Commission to consider their verbiage, and they will agree it was a most gentle and disarming warning.

MR. EVANS: Perhaps I might speak as to that because my friend wants to discuss this, so I will refer to a number of conversations throughout the Western trip when both my friends Mr. MacPherson and Mr. Frawley were pressing me on this subject as to whether we were going to put in evidence of this kind, and that letter and Mr. MacPherson's preceding letter and my reply were merely a culmination of several discussions we had on this matter.

MR. MacPHERSON: All I am asking the Commission to do is to consider the verbiage of the letter and all I can say is it is the most gentle and disarming warning.

THE CHAIRMAN: Now is there any other contribution to be made to this subject this morning? (No answer).

I suppose I need not say that myself and my colleagues on this Commission will have to give some time to considering what we have heard and we will let you know just as soon as possible what we believe to be the proper way out of the difficulty.

Is it worth while going on with anything for a few minutes?

MR. COVERT: I would not think so, my lord. It is eight minutes to one.

THE CHAIRMAN: Then we will adjourn until a quarter to three.

The Commission adjourned at 12.52 p.m.
to meet again at 2.45 p.m.

(Page 8461 follows)

AFTERNOON SESSION

Monday, November 14, 1949.

R. E. MOFFAT, recalled:
EXAMINATION RESUMED BY MR. SHEPARD:

THE CHAIRMAN: I understand that you make the submission of the Province of Manitoba, -we resume hearing the submission of the Province of Manitoba.

MR. COVERT: That is true.

MR. SHEPARD: Mr. Chairman, when we adjourned on Friday afternoon we had reached the end of the section which ends on page 6 of Chapter I, page 47 of the printed submission, and the heading of the section is, "Concern Regarding Level of Freight Rates throughout Canada."

THE CHAIRMAN: Pardon me a moment, where did you say we were?

MR. SHEPARD: Page 47.

THE CHAIRMAN: Can you tell me just what page that would be in this printed copy?

A. That is it. It is 47 of the printed copy.

MR. SHEPARD: Yes, 47 of the printed one.

THE CHAIRMAN: Yes, all right.

MR. SHEPARD: Q. Mr. Moffat, I would like to refer you back to the first paragraph in that section which is on page 4 of Chapter 1 of the mimeographed submission and on page 45 of the printed submission. In that first paragraph you make reference to the fact that the people of Manitoba must pay the freight on the outward shipment of their products to market. I wonder if you would elaborate on that statement.

THE CHAIRMAN: Is that under the heading "Concern regarding level of freight rates throughout Canada"?

MR. SHEPARD: Yes, my lord.

THE WITNESS: In the second sentence.

THE CHAIRMAN: The second sentence, yes.

All right, go on.

A. That point was --

Q. Is that the sentence beginning with "Briefly --"?

A. That is correct. The reference is to the fact that the marketing mechanism is such that the people of Manitoba must pay the freight on the outward shipment of their products to market and on the inward shipment of those producers' and consumers' goods which come in in large quantities from British Columbia, eastern Canada, Europe or eastern United States. That point was discussed at some length in Premier Campbell's address at the Winnipeg regional hearing. The only point that we wish to make at this time is to emphasize that we consider this to be one of the fundamental facts of the western economy. It is not particularly that we are complaining about that situation. We are simply recording our view that it is a fact that on most of the primary products the nature of the market mechanism is such that the price is the price delivered to market and the return to the producer is that price less the transportation cost.

MR. SHEPARD: That is without getting into any argument as to who actually pays the freight. I take it your submission is that the incidence of the freight cost is on the primary producer?

A. That is correct.

THE CHAIRMAN: Q. Before you leave that, a little farther along you said,

"It may be that under the temporary situation during the existence of a contract price for wheat, the above analyses will not be precisely true, but in

longer run and under ordinary marketing conditions there is no question that the return to the western farmer for his wheat is the price at the world market less the cost of transporting his wheat to the world market."

Then I asked you what about today, and you told me the general rule does not apply today.

A. It does not apply in the case of sales under the existing contracts. If there were any change in transportation charges between the farms and the head of the lakes -- I am sorry, no, the other way around, between the head of the lakes and overseas, any change of transportation charges there during the time when the contract with the United Kingdom is in existence must be absorbed by the United Kingdom according to the terms of the contract.

It seems to us that when the time comes to negotiate a new contract or when there is a return to ordinary marketing conditions, the price which will come to the producers of western Canada will primarily be determined by the price that the United Kingdom would have to pay for comparable grain from other parts of the world, less transportation costs.

Q. What is the contract price today, is it \$2 this year?

A. I think it is \$2, I could not be sure of that.

Q. I think it is.

A. I think it is \$2.

Q. Now then, in so far as the farmer, the producer, is concerned in Manitoba, Saskatchewan and Alberta, how is he paid? Is it \$2 per No. 1 northern or what is it?

A. It is \$2 for No. 1 northern at the head of the lakes less transportation charges down to the head of the lakes.

Q. That is the point. He does pay transportation from his station to the head of the lakes. His difficulty then is returning, he pays for that.

A. He has paid before he gets any return at all. That is deducted before he gets it.

Q. So that the producer in Flaxton gets more than the producer in, say, Moose Jaw?

A. That is correct.

Q. And they both get less than the producer near Winnipeg?

A. That is correct.

Q. That is to say, they get the Fort William \$2 less transportation costs from their station to Fort William? Is that right?

A. That is right.

Q. On the basis of the \$2 for No. 1 northern wheat, I suppose?

A. That is correct.

Q. They get less for lower grades. All right.

MR. SHEPARD: Q. Returning now, Mr. Moffat, to the next section of Chapter I, which is headed, "Railways as instruments of national policy", it appears towards the bottom of page 6 of Chapter I of the mimeographed submission and on page 47 of the printed submission. I understand that it is your intention to read this section. Will you proceed to do so, please.

A.

Railways as Instruments of National Policy

It is an historic fact that railways have always been regarded by the Dominion Government as instruments of national policy. To view them in any other way would be folly, because of the size of those railway systems, the strong quasi-monopolistic position which they occupy in many parts of the country, and the almost complete dependence of certain areas, notably the Prairies, upon the railways for the provision of transportation services for their major products. This means that in Canada, railways cannot be regarded merely as business enterprises which are entitled to maximize their profits by applying strictly business principles without regard to regional needs, or national policy.

It is true that Canadian railways have been instrumental in opening up new country, and, in conjunction with tariffs, in welding the component parts of Canada into an economic and political unit. These facts alone make it clear that the railways are not merely private corporations but their role as developmental agencies being so vital, their size in relation to the populated area being so great, and their potential influence upon national development being so enormous, the people of Canada have always insisted that limits should be placed upon their freedom to levy rates according to the principles which would guide ordinary profit-making corporations and upon their freedom to build according to unauthorized plans. Despite the passing of the stage of pioneer development, despite the growth of other forms of transport, and despite the growth of the national income, Parliament has recognized that railway services and the rates charged for them are too vital and too important to be left in the hands of any

one interested party, whether that party be the management of the railways, the employees of the railways, or the consumers of railway services. The Railway Committee of the Privy Council, the Board of Railway Commissioners of 1903, and more recently, the Board of Transport Commissioners, have been agencies established for the exercise of that control which is required in these great questions of transportation policy. Since the role of transportation is still crucial, the Canadian people must, as a matter of national interest, make sure that the Canadian railway systems are maintained on a sound basis. The Government of Manitoba therefore takes the view that the Canadian railway system and the companies which operate it, must be regarded as national instruments which must be used in an equitable manner having regard to the aims of national policy, the needs of regional development, and the maintenance of a satisfactory standard of service.

COMMISSIONER ANGUS: Does that carry insurance with reasonable profits subject to management?

A. The point is discussed rather briefly in one of the other chapters, sir. I think the short answer is yes, subject to considerable argument as to what is a reasonable profit, of course.

We should immediately make it clear --

THE CHAIRMAN: These words "reasonable profits", they do not occur --

COMMISSIONER ANGUS: No, they do not occur in the text.

THE WITNESS: I will just begin at the beginning of that paragraph again.

We should immediately make it clear, however, that we do not question the wisdom of continuing the basic

structure of Canada's present railway system in which the C.N.R., a government-owned enterprise, competes with the C.P.R., operated as a privately-owned

railway. Although, in the remainder of this submission we make a number of proposals which would have the effect of laying down a more detailed framework of law and regulations within which the railways would be free to exercise their own judgment, nevertheless, we are strongly of the view that the C.P.R. should continue to operate as a privately owned system within that framework. We feel that administrative efficiency, operating efficiency, and service to the public, will all be maintained at a better standard if Canada continues to have two competing major railways, one privately owned and one owned by the Dominion Government.

MR. SHEPARD: Q. Mr. Moffat, would you refer back to the last sentence in the second last paragraph of that section? It is the last sentence at the bottom of page 7 of Chapter I of the mimeographed submission and it is the last sentence in the top paragraph of page 48 of the printed submission.

A. That is the sentence which expresses the view that in operating the railway system there must be regard to the aims of national policy and the needs of regional development and the maintenance of a satisfactory standard of service.

Q. Yes, and earlier on in the same section you made use of the phrase, "instruments of national policy". Would you just give any explanation you may have in mind as to the meaning of that type of connotation, that phrase?

A. The idea which lies behind this is that there

should be more detailed restrictions in certain aspects of railway operation and certain aspects of railway development policy; but there is no thought that national instruments" should be interpreted as meaning that attention is to be paid only to matters other than the interests of the railway company itself. The railway company is certainly one of the most important parts of the Canadian nation and consequently in working out national policy one of the important objectives must be today: What is the right thing by the railways as well as what is the right thing by everybody else concerned?

(Page 8471 follows)

Q. You probably have noticed, Mr. Moffat, that in the second volume of the C.P.R. submission the Manitoba submission **is** branded as socialistic. Have you any comment to make in that regard? Does this explanation you have just given us supply, in your view, an answer to that argument of the C.P.R.?

A. As to the word "socialistic" itself, the problem of definition of what is meant there is something that can probably not be answered precisely, but the concept which underlies this approach -- some people might want to call it socialistic, some might not, but the concept is that there will be certain restrictions set down in line with public policy as to how the railways ought to be operated, and within those limits the railways would be left free to operate under their own initiative; and in that regard it is no different from what has always been the operating situation in regard to the railways, in fact in regard to practically all enterprise. There may be some suggestions here for narrower limits for restricting the range within which the railway operation would be on its own, but whether or not that is socialistic, that is certainly not my impression of what the public usually thinks when they think of the word "socialistic" in the sense it is used in that C.P.R. brief.

Q. Mr. Moffat, would you say that it would be possible to define as socialistic any regulation at all, any degree of regulation of any type of utility?

THE CHAIRMAN: Of any what?

MR SHEPARD: Q. Any type of utility -- since it would constitute a partial taking over of control by the Government?

A. It is socialistic in the sense that society is offering an increasing amount of direction as to how the

thing should be handled, but---

Q. That is what I take it is the meaning of your section here dealing with the railways being instruments of national policy?

A. Well, the suggestion is that there should be a slight narrowing of the range within which the railways will be free to operate on some points, and on other points they should be left as they are. It is a concept of dealing with individual issues and trying to set up ranges within which the railways will operate

Q. Now, turning, Mr. Moffat, to Chapter II---

COMMISSIONER ANGUS: Q. Might I ask a question before we leave Chapter I? It is in the last two lines, "two competing major railways". Are you developing later in the brief the field within which competition will be significant?

A. As between the two railways?

Q. Yes.

A. No, there is no further development of that in the remainder of the brief.

Q. From the point of view of service or whatever it may be?

A. No.

Q. Or the incentive to compete?

A. Between the railways?

Q. Yes.

A. There is a small section which deals with the place of co-operation as defined in the C.N.-C.P. Act, but that is the only discussion of it.

Q. I mean this: if a reasonable rate of profit, not too much and not too little, is assured, what incentive is there to compete?

A. Well, I do not think there is any necessary im-

plication that it would be assured. The concept is that they would have an opportunity to earn a certain profit. There is no intention of putting into this brief the thought that this profit must be guaranteed to the railways, no. Consequently there is that range for competition between the railways, to maximize their own operations and to improve their efficiency and to improve their service to the public, in order to try to get traffic away from the competing line.

Q. You draw a distinction between assuring something and giving an opportunity to make something, provided that you manage efficiently?

A. Yes, that is right.

Q. There is a difference between that and assuring profit if you are managed efficiently?

A. Yes, I think so, I think so.

MR SHEPARD: Q. Turning now to Chapter II, Mr. Moffat, the first heading is "Regulation of Railways in Canada," and that is the subject matter of the chapter. I understand that it is not your intention to read the first section, which extends to the middle of page 4 of Chapter II in the mimeographed submission, and to about the top third of page 51 in the printed submission, but you may have some comments to make on that in the first four pages there.

A. This chapter is one which is designed to develop what might be called the philosophy which underlies the rest of the brief; it might be called the theoretical analysis, if you like. It is pointing out that the people of Canada have always insisted that there should be some control over the operation of the railways and the level of rates which would be charged, and that as soon as a body undertakes that function, then it

must inevitably find itself involved in questions of more detail to some extent, such as the standard of service that is to be provided and the standard of service which is to be charged up in the form of higher rates. Then the chapter continues by giving a brief outline of changes in the attitudes of the public, particularly western Canada, toward that sort of regulation. The following three headings then, you will notice, are early attitudes toward railway regulation, railway regulation under the Board of Transport Commissioners, and recent changes in the attitude toward railway regulation.

The basic idea that is developed in those three sections is along these lines, that in the first opening up of settlement in the west the people of the west wanted railway transportation, that was the one prime object, and they were prepared to do almost anything to get railway transportation. Consequently, when they saw an opportunity to get railway transportation they were prepared to leave it pretty much up to the railways as to what kind of service, what kind of rates, what frequency of service or anything else, so long as the railways came in there. As soon as the railways were there, and as soon as the settlers in the west were reasonably sure that they had a railway service, then immediately their interest was not in getting the facilities; the facilities were there, and the interest swung over to that of seeing that the railways did not abuse their position in their strong situation with respect to competition. Consequently you have the developments of the McLean Report and the setting up of the Board of Transport Commissioners in the 1903 Act, under which the Board was given the job of setting ceiling rates and of dealing with complaints that the railways were treating someone unfairly or were abusing their posi-

tion, and that situation continued to exist for a considerable period. It is still the situation which is reflected in the present Railway Act and in the policy and precedents of the Board of Transport Commissioners.

But we go on then to suggest that in the more recent past there has been another change in the attitude of the Canadian public, particularly the people of the west, and that now the emphasis has shifted ever farther away from that of the mere provision of railway service, and has moved over into the field of how are we best going to use this service for the good of the country as a whole, including the railways themselves, and the other groups in society?

The result is that it seems to us that the time has come when the Board cannot simply restrict itself to the negative job of preventing things from happening; it must move over into taking some initiative on its own and starting things to happen.

The example that is probably clearest is that of the equalization of rates by areas. So long as you have a negative attitude, the Board will simply forbid any introduction of discrimination; it will not go ahead and direct railways on its own initiative to eliminate discrimination, and it seems to us that the public attitude has swung over to the point where this sort of philosophy should underlie the Board rather than the negative prohibitions that were introduced as a result of the McLean Reports and the 1903 organization of the Board of Transport Commissioners.

CHAPTER II - REGULATION OF RAILWAYS IN CANADA

From their very beginnings railways in Canada have been subject to public control, and as such they have shown many of the features of those types of enterprise which are known as public utilities.

There is nothing new in the public utility concept. It is an accepted feature of our society in situations where the general reliance on the pricing mechanism of a fairly free market to protect consumer interests has been found inadequate in a particular important field. The foundation of the concept of regulation of public utilities lies in a public recognition that the function of meeting certain of the community's economic needs will not be fulfilled adequately unless certain restraining influences are introduced. Through most of the fields of economic activity in our society the pricing mechanism of the market operating within a loose framework of law and custom, provides this restraining influence and ensures in a more or less satisfactory way that the quantities and qualities of goods and services required by the public are made available. But it has long been recognized that public supervision in one form or another is required in those activities where the impersonal mechanism of the market has led to results which society finds unsatisfactory. The origins and development of public utility regulation can be explained largely in these terms.

There have always been strong disagreements on the question of how large an area of the economy should be subjected to regulation in this way, although there is general agreement that where a field of activity displays certain characteristics, it is affected with a

public interest and if the public needs are to be adequately met some form of public supervision will be necessary. In Canada, in the United States, in Great Britain and in fact throughout most of the world, rail transportation has long been included in the group of industries which are treated as public utilities. The features which make the railway industry a fit subject for public scrutiny and supervision and place it in the category of a public utility, are two in number.

It is an industry on whose efficient and uninterrupted operation the rest of the economy is heavily dependent. A breakdown in rail transport in a highly specialized economy which has no other method of moving most of its goods, leads directly to widespread stoppages elsewhere, and if that situation persists for any length of time, accumulated inventories disappear, storage facilities become clogged and the over-all effect is nothing short of catastrophe. The effects of the railways employees' strike in the U.S.A. in May, 1946, have not yet been forgotten. Less dramatic, but of even greater importance in the long run, is the fact that in many areas the standard of rail service and the rates charged for that service almost completely determine the standard of living and the industrial development which can occur there.

It is an industry in which there are important limitations upon the ability of competing firms to establish themselves. A field of industry which is important in the above-mentioned sense, might still be outside the legitimate field of public regulation however if the field is one which attracts numerous participants, with entry and exit being not unduly difficult. Under such conditions the public finds itself

in the fortunate position of being able to choose between several suppliers of the service and the resulting competition serves as a check on the action of each of the participants. In other words, the competitive operation of market forces becomes a regulator on which the public relies for its protection against any attempt by the producers or sellers of the service to take advantage of their strategic bargaining position. This situation does not, however, prevail in the railway industry.

For reasons such as a need for a very heavy initial investment in highly specialized capital goods, and the economies which are brought about by operations on a large scale, the railway industry has always been dominated by a few large firms and in many localities the shippers have been forced to depend upon the one railway which serves that locality. Even where a locality is served by more than one railway there is a strong monopoly element in the movement of any particular shipment unless the point to which the shipment is going is also served by two railways. In the absence of some regulatory device the public would be left largely at the mercy of railway management.

For these two reasons, namely, a heavy dependence of the economy as a whole on the operation of railway service, and the absence of the impersonal checks of a fairly competitive market, railway operation from its earliest beginnings was placed in a special category subject to restrictions and directions laid down by public authority. The responsibility of the regulatory body has been to ensure that the public as a whole, as well as particular sections of it, is protected from unduly high rates and inadequate service, and at the

same time to safeguard the legitimate rights of the enterprise which is being regulated. It should be pointed out at once that in performing these functions the public authority is taking over the functions which in other industries are performed by market forces. If by order or regulations of a regulatory body the public is to be protected from unduly high rates then that body has taken on the function of deciding what is a fair rate, i.e. it is in fact making the decisions which would otherwise be arrived at by the market. Further, just as the market produces different prices under different circumstances so a regulatory body which is aware of its true function will produce different results in changing conditions.

An integral part of the question of fair price is that of the quality of the goods or service for which that price is being paid. Under ordinary competitive conditions a buyer is free to accept or to reject goods or services of a particular quality being offered to him at a particular price. It is the buyer, therefore, whose decisions will in the long run determine the quality of the goods or services which find a market. By the same token it follows that in a regulated field of enterprise the public should not be forced to accept the particular quality of service decided upon by the seller. It is, therefore, the view of the Manitoba Government that the Board of Transport Commissioners should be charged with the responsibility of deciding both the quality of railway service to be provided and the rates which are to be paid for that service.

Early attitudes Toward Railway Regulation

We would now like to direct attention briefly to the changing attitudes toward railway regulation in

Canada and to point out the relationship between the attitude in each period and the changing importance which the public attaches to the two factors mentioned above, namely the indispensable need for railway service and the need for some protection against possible abuses of the railway's monopoly position.

In its inception, the C.P.R. was an enterprise made possible by the combination of private risk capital and a large measure of public support which took the form of outright contributions of money, of lands, of completed sections of railway lines, and sympathetic national policy. In so far as most of the territory to be crossed by the railway was unpopulated and unproductive, the modern problems of freight rate relationships, location of line, adequacy of service, etc., did not present themselves. The interest of the Government and of the Canadian public was concentrated on having a line built in order that an economic integration to match the political union initiated in 1867 would be provided. Almost all other considerations were subordinated to that of securing an East-West integration of the Canadian economy. One of the first requirements was a railway line to serve the country and Canadian tariff policy and immigration policy were directed to the same end. No one will deny the important part which the railway took in promoting the development of the region which it served. Railway development and national economic development marched together. In these circumstances, the identity of interest between the railway and the public was such that decisions concerning railway construction and finance concerning railway freight rates, etc., could be left almost entirely to the management of the company, with reasonable assurance

that so long as development and extension of lines pressed forward the Canadian public would not be too concerned about rates charged or about inequalities between various areas or between shippers of various commodities. In fact the only over-all control of freight rate levels in this period was the provision that if the C.P.R. paid dividends in excess of 10%, its rates would be subject to supervision by the Railway Committee of the Canadian Privy Council.

As soon as railway lines were built, however, the people of the area began to be less concerned about the mere provision of railway service and directed their attention to an attempt to have railway policies conform more fully to the needs of the region served. Interest therefore shifted to such matters as the over-all level of freight rates and the rates charged for important commodity movements. These differences became manifest at a fairly early stage in the history of Western Canada. One need only recall the vigor with which this Province attacked the monopoly privileges extended to the C.P.R. and the measures which were taken to force freight rate reductions on that line. The point is that once the basic interests of providing a transcontinental rail system and of taking steps to assure its financial success had been satisfied, other interests appeared. Questions of agricultural and industrial development could not be separated from the freight rate structure, and the competing desires of different sections of the country to progress industrially and agriculturally gave rise to the need for adjustment of the rate structure. Jealousies with respect to the location of branch lines manifested themselves in claims for new and improved transportation facilities. With the

disappearance of some of the risks attendant upon the initial construction of the railway, a scaling down of the financial returns of the company was sought. A realignment of interests had taken place and a new balance had to be found.

Railway Regulation Under the Board of Transport Commissioners

The rapid rate of development following the completion of the main line of the C.P.R. brought these problems to the forefront quickly. Accordingly, the question of devising a suitable method of effecting a balance between the various conflicting interests which had emerged by the turn of the century had to be faced. The reports of Professor S. J. McLean on Railway Commissions, Railway Rate Grievances and Regulative Legislation led directly to legislation providing for the constitution of the Board of Railway Commissioners to administer a railway regulation policy as laid down in the Railway Act. The essential nature of that Board and that Act was that they were designed to prevent abuses and to remedy discrimination where complaints were lodged. In other words, the emphasis had shifted substantially from that of mere provision of railway service to that of preventing unfair treatment of the users of the service. The regulation was negative in this sense that it was merely designed to prevent certain undesirable actions which might be taken. For example, rates could not be higher than the maximums set in the class rate structure. But within those limitations the railways were still free to exercise full authority. For example, they could meet or ignore competition without regard to whether the competitive rates had adverse effects upon one or more regions. The system

reflected an attempt to prevent the most serious abuses of the railway's monopoly position while retaining as much as possible, the freedom of action which they had enjoyed in the earlier period. It was a system which proved reasonably satisfactory so long as the old concept of an expanding nation remained and so long as there remained a public attitude which placed such extreme importance upon the provision of railway services that it was prepared to overlook any but the more serious defects of railway policies.

This attitude remained dominant during a period which was characterized by a general upward trend in terms of economic growth, married though it was by war and short-lived recessions. The railway systems remained in the forefront and made this growth possible. While it is true that the complexity of rate regulation increased during these years, due partly to violent fluctuations in the level of prices, partly to the aspirations of various sections of the national community for a "place in the sun", and for other reasons as well, it must also be borne in mind that the larger identity of interest and the interdependence between a growing national community and an expanding railway system remained. The necessity to recognize the legitimate needs of an expanding enterprise, though quasi public in nature, also remained.

Recent Changes in the Attitude Toward Railway Regulation

It is our submission that the Canadian experience during the great depression of the 1930's and during and since the second great war has produced such a change in public attitudes on these questions that there is need for a complete reassessment of the Railway

Act and its administration to bring them into line with present conditions. The task of arriving at a suitable balance between the various interested parties should now be approached in a manner which is adapted to a different set of conditions.

The railway systems of Canada to-day remain an absolutely indispensable feature of the national economy. Their continuous and efficient operation is vital to the welfare of all of us. To deny them the means which make possible their operations would be harmful to all of us. But at the same time a definite change in the functions of the railway system has taken place. The railways are no longer spearheading the national development. They have become firmly embedded in an economy which shows signs of greater stability and a slower and more orderly growth in the future. The prime function of the railway networks is to serve an existing community effectively, rather than to build a new one. This is not to say that we feel that no changes lie ahead. We believe that the future will bring changes and improvements and that the railways will be closely connected with them; but the direction and nature of these changes will not be so closely connected with railway building. Furthermore, the provision of new railway facilities will be a relatively small part of the Canadian transportation problem, while the manner in which existing railway lines are used will be a paramount issue. In these changed circumstances the interest of the public in railway operations changes, with less emphasis being placed on the promotion of increased trackage and other rail facilities, and a greater emphasis on using the existing railway facilities to meet the ever-changing needs of the

community. The effect is to require a shift in the nature of regulation.

On the one hand public regulation should shift its emphasis away from mere restrictive measures to prevent abuse of the semi-monopolistic position of the railways and toward the acceptance of responsibility for initiating policies required to adjust the railway system to the changing needs of the community and its parts. On the other hand, there must continue to be a clear recognition that if this is done it carries with it the responsibility to make sure that the railways have available to them, the funds and the facilities necessary to provide the type of service which the country requires.

One aspect of this change requires particular notice. It has to do with the need to protect certain areas against being asked to pay more than their fair share of the total railway costs of the country. This is no simple task under modern conditions and cannot be brushed off with the suggestion that a formula such as "charging what the traffic will bear" will provide a ready answer in all cases. Nor can the question of arriving at an equitable distribution of the national transportation bill be treated in terms of discriminatory freight rate levels which are not "unjust" according to the criteria which have been applied in the past. Some more positive direction from the regulatory body has become necessary. The interests of a mature railway system are such that they could not be expected to take the initiative in introducing a change of this type which, although desirable as a matter of public policy, will not necessarily appeal to the self-interest of the railways.

Under the existing system of regulation, such changes will not be made because the regulatory Board considers its function to be that of preventing undesirable actions proposed to it. It does not undertake the initiative in correcting existing situations.

The logical conclusion which may be extracted from the above remarks is that the realignment of interests in the operation of our rail networks is such that the task of balancing them requires more than regulation of the restrictive nature which was exercised in the past. The function of the regulatory body must be not only to prevent abuses of particular types, but must go further in that a larger measure of positive direction is required. That this should be true must be obvious to anyone who is aware of the differences of opinion not only between the railway companies and the public at large, but also between various sections of the public. Expression of this has been noticeable in the freight rate controversies of the past two and a half years.

While suggesting that regulation of a more positive nature is required for the future, we are not unmindful of the fact that the railway companies' right to an "adequate" scale of remuneration should not be lightly dismissed. To do so would do serious harm to the welfare of Canada generally. It is the view of the Manitoba Government that the nature of the transportation service should be determined to a larger extent than in the past, by a body representative of the public, and the distribution of the costs necessary to the performance of this function should likewise be determined to a larger extent by someone other than the railway management. It follows that

the public at large, is under obligation to provide the railways with the financial means to provide that service and that one of the main problems to be faced by the regulatory body will be that of determining how much money the railways need for that purpose.

The discussion above is intended to suggest what we consider to be the attitude of the Canadian public as to the functions which the Board of Transport Commissioners should perform under present conditions. The record leaves little doubt but that these functions have not been adequately fulfilled in the past. To some extent this is a criticism of the Board itself but in a more fundamental way it is a statement of the fact that the powers and responsibilities of the Board as set out in the present Act, are inadequate. We now propose to make certain suggestions for changes in the Railway Act and its administration in the light of these changed attitudes.

MR SHEPARD: Q. Now, Mr. Moffat, I take it that what you have just told us pretty well summarizes the first three sections of Chapter II. The third section ends at the top of page 11 in the---

A. The first four sections, Mr. Shepard, ending at the top of page 11, Chapter II.

Q. The top of page 11 on the mimeographed submission; and the next heading is "The Board should be Considered a Policy-Making Body," which appears on page 55 of the printed submission. Back on page 2 of Chapter II there is just one phrase that I think we might clear up before we move on to that next section. It is in the paragraph starting:

"It is an industry on whose efficient and uninterrupted operation the rest of the economy is heavily dependent."

The last sentence in that paragraph reads:

"Less dramatic, but of even greater importance in the long run, is the fact that in many areas the standard of rail service and the rates charged for that service almost completely determine the standard of living and the industrial development which can occur there."

What did you have in mind in using the two words "almost completely", with reference to determining the standard of living and industrial development?

A. Well, there are two situations that can almost completely determine the standard of living. One is whether or not there is a railway service in there, whether the standard of rail service goes to the extent of having rail facilities or not. Certain areas of the west -- you think of the Peace River country as an example -- are completely dependent upon rail transportation. You could not have agriculture in there on its present scale at all with-

out rail and without a standard of service that would at least get the grain out. The other sort of situation is exemplified by the rate structure which will allow certain industries to develop in an area and will prohibit or make practically impossible the establishment of the same industry if conditions are somewhat different. I do not think you have quite so ready an example in the extreme form, but we have cases of the transcontinental rates from Toronto to Vancouver which have made it extremely difficult for certain of our industries to get started in Winnipeg. Although they are closer to Vancouver, still the cost of shipping out to Vancouver is such that the Toronto-Montreal area has developed the industry to supply a market even though it is a thousand miles farther away from Toronto and Montreal than it is from Winnipeg.

THE CHAIRMAN: Q. Well, do you say that that has prevented industries from coming to life in Manitoba?

A. It has prevented some industries from coming into life, I think; it has certainly prevented some industries from growing as large as they otherwise would have, which means---

Q. Can you give us some examples of both?

A. Well, we have the two examples that were used at the regional hearing in Winnipeg, the sunflower seed industry, which has of course grown -- there is no argument that it has not done very well the last few years, but there is the limit on it, and the---

Q. That industry has competitors in the east, has it?

A. Yes; not directly with sunflower oil, but it has competitors with other forms of vegetable oils, shipping both from Vancouver to Toronto and Toronto to Vancouver.

Q. They get lower rates?

A. They get lower rates than our sunflower people got

on their shipments direct from Winnipeg. Then the other case that has been presented in the regional hearings, both of your Commission and the Board of Transportation Commissioners, is the battery people, the Ray-O-Vac Batteries, which is a small battery firm making flashlight batteries and dry-cell batteries for rural radios and that sort of thing, and they have had some difficulty until they were able to get a competitive rate brought in.

Q. Well, is their position satisfactory now?

A. It is much more satisfactory now that the trans-continental rates have been raised, yes, but there has been this situation in the past there.

MR SHEPARD: Q. Turning, Mr. Moffat, then to the section on page 11 headed "The Board should be considered a Policy-Making Body," I understand that it is your intention to deal in some detail with that section and the two following, which run to the end of the chapter. Would you proceed to do so, please?

A. These are the sections---

THE CHAIRMAN: Q. Pardon me a moment. Is this the proposition you put forward here, not only that the Board ought to be a policy-making body, but that it is a policy-making body; is that it?

A. Yes, that is correct; but that it should be recognized more generally that it is a policy-making body, and consequently the thought is developed that that means--

Q. Who does not recognize that?

A. Well, to some extent themselves.

Q. Well, that is the point. In that case they are not the full policy-making body that you assert that they are here; is that it?

A. Well, I would put it this way, that they for various reasons have not used the authority which we think

they should have, and which we rather think they maybe do have.

Q. Under the Act?

A. Under the present Act.

THE CHAIRMAN: All right, then, go on.

THE WITNESS: "The Manitoba Government is of the view that there is need for a wider appreciation of the fact that the Board is, in a very real sense, a policy-making body as well as a judicial and administrative organization. Certainly there can be no disagreement with the fact that the final responsibility for public policy decisions in this field must rest with the highest policy-making body, namely, the Dominion Government. As was pointed out in the brief presented by Premier Campbell, railway transportation is so vital and has such monopolistic characteristics that our people are firmly of that view. But we are also of the view that it would be completely unrealistic to suggest that the Dominion Government should directly deal with the day by day administration of that policy, or that it should attempt to lay down broad principles of policy without the benefit of detailed study by persons who are in close touch with the matters concerned."

THE CHAIRMAN: Excuse me. Mr. Shepard, on that question of the Act as it is now, are you prepared to show us later that there are sections in that Act which do confer upon the Board in fact a policy-making power which they have not exercised?

MR SHEPARD: "We will in argument, my lord, by making submission on two counts. First of all, where we consider that the present Act should be changed, and, secondly, where the power may now exist in the Act but where some form of administrative direction may be required. In

other words, we feel now that in certain circumstances, as we develop through the brief, the power may exist, and sometimes it is a little difficult; there are border-line cases to determine whether it does exist or not, but the fact appears to us at any rate that in the past, even where that power did exist in the Board, it very seldom exercised it of its own motion.

THE CHAIRMAN: Then you have certain sections of the Act that you intend to refer to, I suppose?

MR SHEPARD: Yes; we will be referring to that later, my lord.

MR EVANS: I would rather hope that my friend would give us those sections in advance, so that we could use them as the basis of cross-examination.

THE CHAIRMAN: Oh, yes, that is only right, because the matter is of very great importance. That is, the assertion now is that the Board of Transport Commissioners is not fully carrying out the powers which it has under the Act in this respect.

MR SHEPARD: In some aspects, yes.

THE CHAIRMAN: Well, in the aspects of making policies.

MR SHEPARD: Yes.

THE CHAIRMAN: And I think then you should let us know as early as you can what parts of the Act you point to, and let everybody concerned have the same references.

(Page 8500 follows)

MR. SHEPARD: As far as the reason put forward by my learned Mr. Evans, for wanting the sections so that he might cross examine Mr. Moffat on them I do not quite see. I think it is more a matter, my lord, of legal argument later than cross examining a witness. All that Mr. Moffat, could say -

THE CHAIRMAN: I don't know, we can't say that until we see what the whole matter is. Your brief says "This body is now a policy making body" can't you support that at once by pointing to section so and so?

MR. SHEPARD: Well, I have not got the section before me.

THE CHAIRMAN: You see, our position here is this. We are not deciding cases; we are covering fields where we are trying to get all the information we can as soon as we can in order to arrive at general recommendations for the benefit of the government and parliament, so anything you can do to hasten along these recommendations will be appreciated by us, and if you can furnish us with those sorts of particulars, you should furnish them also to those who are concerned in the discussion. Perhaps your brief might have referred to the Railway Act Section so and so, but you see, it does not.

MR. SHEPARD: We feel - perhaps we were not correct in this feeling, but we felt that actual reference to the Railway Act and suggested changes that might or might not be necessary were a matter for argument at the inclusion of our evidence.

THE CHAIRMAN: But you see, you make an assertion that the Board now has powers which it is not exercising and I ^{asked} you whether those powers are mentioned in the Act and ought to be used. The sooner you can give us those parts of the Act which you refer to, the better, because

we have numerous statements by the Board itself from time to time which are limited to the extent of the powers which you believe they in fact enjoy but under the Act you say they cannot go beyond their own Act. We would like to have the reference; I think it would be useful.

MR. SHEPARD: I think we can probably have those sections read into the record in the morning. Will you proceed Mr. Moffatt?

THE WITNESS: " In a sense, the establishment of the Board of Transport Commissioners involved a delegation of policy making functions from the Dominion Government to that Board. The general approach which the Board is to take in deciding the highly technical matters which come before it is laid down in the statute, but within those broad limits the Board acts in a legislative as well as in a judicial capacity. There is probably much to be gained in turning over to a specialized group the policy making functions on specialized questions. The gain in terms of efficiency and time saved is probably enormous. At the same time no one can accept the proposition that policy decisions in such an important field as this should be final if made by a body other than the Dominion Government. The ultimate responsibility for public policies must rest with the Government.

It is, in our view, most essential that this policy making function of the Board should be clearly recognized, and that the relationship between the Board and the Dominion Government and the Railway Act should be clear. There are certain matters which are of great national

importance and where the policy to be followed can be laid down quite specifically. It is our view that Parliament should deal with these

issues directly in the Railway Act itself.

On the other hand, the body which is to administer the Act must, of necessity, base its decisions upon the consideration of facts which go far beyond the limits of railway operations as such. It is therefore essential that the Act make it clear that the Board has the power and responsibility to consider such matters. In many matters of this type the Railway Act can merely lay down the general lines of policy but must leave a substantial measure of discretion to the administrative body to decide which action should be taken at any particular time.

The responsibility of the Dominion Government as distinct from the Parliament should also be clear. The danger is that once a Board of this type has been set up the ultimate responsibility of the Dominion Government for its policies, might not be appreciated. What we have in mind is that if a particular issue arouses strong public concern it might be suggested that that matter is exclusively a problem for the Board to decide and that consequently the Government can do nothing about it. For this reason we feel that your Commission should recommend that in any revised Railway Act there should be a clause which gives the Dominion Government the responsibility and the authority to disallow or to vary any order of the Board."

THE CHAIRMAN: Have you reference to the present condition of the Act which provides for an appeal?

A. On that particular point, I believe the clause is in the Act.

MR. CARSON: Section 52.

THE CHAIRMAN: You think that is satisfactory, do you?

A. Sir, I would not want to speak as to whether it is satisfactory or not from a legal point of view. The policy as conceded in the brief and myself ^{by} is to advocate that the policy ought to be decided on ^{be}half of the Government.

Q. You think the Dominion Government should have the responsibility and the authority to disallow and to vary any order of the Board?

A. Yes - "Furthermore, in cases where the Railway Act has laid down only the general lines of policy, the result will inevitably be that in many situations there will be several alternative policies which might be adopted, all of them perfectly consistent with the general policy laid down in the act. In situations such as these we feel that it should be made clear that the Dominion Government has the authority to designate which of those alternative policies is to be applied. We feel that the Dominion Government should have the power and the responsibility to take such actions either on its own motion or upon application."

COMMISSIONER ANGUS: Could you give an example of the type of thing you have in mind there?

A. Well, one case specifically is the question of the method of handling depreciation. It seems to us that that particular point should not be in the statute precisely but, on the other hand, we feel that there may be

situations where the Dominion Government should either direct that it should be straight-line or this or that type of depreciation, and direct the Board to go ahead and make the necessary statute. It is situations of that type we have in mind.

Q. You say the Railway Act laid down the general line of policy and there might be several alternative policies that might be followed. Would the general line be that there is to be depreciation and the alternative line that there might be -

A. Or it might be that the general line is what the Board might decide, how much it costs to run the railway's system and limit it as generally as that, and then the Government might want to intervene and then say: "Now, in respect of this particular part of it, the depreciation division we want that handled this way" .

THE CHAIRMAN: Why might not the Act say that?

A. Because it might be too rigid. It may be if it was put into the statute it might be too rigid.

Q. Then under your submission the Government would direct the Board from time to time how it should interpret the carrying out of its duties?

A. The phraseology was fairly carefully considered there sir. -"There will be several alternative policies which might be adopted, all of them perfectly consistent with the general policy laid down in the Act. In situations such as these we feel that it should be made clear that the Dominion Government has the authority to designate which of those alternative policies is to be applied". There is no suggestion of going outside the Act.

Q. But might there not be a change from time to time? The Government might direct one policy to be followed this year and another next year?

A. That is correct, if conditions have changed in the mean time, yes.

COMMISSIONER INNIS: You mean to say that the Dominion Government has not the power and responsibility to take such action?

A. Again sir, we are on one of those fields where as far as I am concerned I am not clear whether they have or have not and the attitude that was taken in this brief was that they ought to have it verified. Whether it is perfectly clear or not in the present Act I cannot say.

Q. I would think in all things Parliament surely has power to do anything?

A. No, but the distinction here is the Government as distinct from Parliament, in other words, Orders-in-Council rather than acts of Parliament.

MR. SHEPARD: Our distinction is that we do not consider that Section 52 is satisfactory -

THE CHAIRMAN: You do not consider the appeal provision satisfactory in that regard?

MR. SHEPARD: That is correct. We will consider that a matter for argument.

THE CHAIRMAN: The thing is how would you proceed before going to the Commission on a question of this sort - you would just go to the Government and ask them for a direction and then go to the Commission?

MR. SHEPARD: I think the way it would work out in practice, sir, would be that if the Board failed to do something which an interested party considered should be done that the Government should have the power to make a direction.

THE CHAIRMAN: Well, they have that power now haven't they?

MR. SHEPARD: They only have the power to vary or rescind under 52.

THE CHAIRMAN: Or to refer back.

MR. SHEPARD: That is not expressed; they do it but it is not expressed. They have done it.

MR. EVANS: They have the power to refer back under Section 38. They may refer any matter to the Board under Section 38.

THE CHAIRMAN: But have they not in the judgment of the Board referred the whole or part of those appeals back to the Board for reconsideration?

MR. EVANS: Not under Section 52.

THE CHAIRMAN: They have done it under some section?

MR. EVANS: Yes sir, but they refer back acting under Section 38. They do so on account of an appeal under Section 52.

THE CHAIRMAN: And in lieu of an appeal they decide to apply 38?

MR. EVANS: Yes.

MR. McLEAN: I would submit, Mr. Chairman, that there is some question of that.

THE CHAIRMAN: It is a good thing to bring these suggestions out into the light of day as early as possible.

MR. McLEAN: That is one of the questions we are raising here as to the ambit of the Governor-in-Council in combination irrespective of subsection 1 of ^{Section} 52 and Section 38. They may vary or rescind an order under Subsection 1 of Section 52 and under Section 38 they may at any time refer to the Board for report or other action any question, matter, or thing arising or required to be done under this Act or a special Act. It seems to us and we will later submit that that is narrower than we think the powers should be even reading those two provisions together.

THE CHAIRMAN: Will you suggest an appropriate amendment?

MR. McLEAN: Well, we will in argument sir, or if

necessary we will do that before, if it will be of any assistance.

THE CHAIRMAN: Well, the earlier the better,

MR. O'DONNELL: P.C. 4678 is an example of the Governor referring the matter back to the Board and also in 1920 they did the same thing.

THE CHAIRMAN: Is that a case you refer to?

MR. FRAWLEY: P. C. 4678 is the case in which we appealed the 21st Judgment to the Privy Council and they referred it back to the Board for review.

MR. CARSON: They did not vary it or rescind it under 52 but they referred it back under 38.

MR. MacPHERSON: In that case I would like to draw attention to the dissenting judgment of the Assistant Chief Commissioner at page 17 where he himself questioned the authority of the Government under Order-in-Council to direct, that they do direct although they state as a matter of practice they followed that. It is a question of the infelicity perhaps of the language of these two sections.

THE CHAIRMAN: Well apparently the majority of the Board accepted it as legal?

MR. MacPHERSON: Yes.

MR. O'DONNELL: And they did the same thing in 1920 too.

MR. FRAWLEY: Well that does not make it right. Our friends of the Canadian Pacific Railway rather questioned the right of the Governor-in-Council to do what they did under Section 52 in P.C. 4678.

THE CHAIRMAN: They say they must have called in 38.

MR. FRAWLEY: They said nothing about that in the Order-in-Council but my friends have now put that interpretation to it.

THE CHAIRMAN: Well, if authority is to be found in the Act anywhere from Section 1 to Section 500 there it is. You could combine sections together if you wished to squeeze the most out of them.

MR. SHEPARD: Will you continue, Mr. Moffat?

THE WITNESS: Continuing then, at the top of page 13 of Chapter 2:

"It is true that a properly constituted Board which is aware of its functions and responsibilities will generally arrive at decisions which are quite consistent with the public interests. Under such circumstances, any significant number of interventions by the Dominion Cabinet would be unfortunate in that they would destroy the usefulness of the Board as a maker of policy. A competent Board should be left free to use its own judgment within the limits of the Railway Act."

THE CHAIRMAN: Now that is a very wide statement - "A competent Board should be left free to use its own judgment within the limits of the Railway Act".

A. That is a suggestion that as a matter of administration they should be ordinarily left alone and allowed to administer the thing but it goes on to point out that it is our view that it should be properly clear that the cabinet should intervene if there is a sufficient national question involved.

COMMISSIONER ANGUS: Have you any test for a competent Board, as to whether they should agree or disagree with it?

A. Not whether any one person agrees or disagrees with it, but we say if its decisions are reasonably acceptable to the people of the country, I think that is the test. Whether these decisions are acceptable to the

people of the country - that is the test. After all, that is what the Dominion Government is.

Q. I asked that because a competent Board sometimes suggests something else. It suggests a Board that is making decisions that are objective.

A. Well, what is implied in this whole idea of a Board dealing with fair policy, that the test must be something that is in the best interests of the people of Canada.

"At the same time it is certainly conceivable that a misjudgment of where the public interest lies, or perhaps an inadequate appreciation of the complex situation upon which it is called to rule may lead some future Board into serious mistakes. It is to insure against such an unlikely but entirely possible eventuality, that we urge that an avenue be left open for a review of the situation by the highest policy making body in the country. In support of this position, we remind your Commission of the many questionable aspects of the 21% Judgment of the Board of Transport Commissioners, in March, 1948, and of the unfortunate situation which would have existed if that decision had been allowed to remain final, with incalculable results on freight rate levels in Canada for all time to come.

A system under which an administrative body acts under policy directions from the Government within the general framework of policy laid down by Parliament in a statute is by no means new in Canada. The whole of our business organization has developed and operates under administrative procedures and regulations laid down in accordance with

the policies set out in provincial and federal statutes dealing with taxation, with corporate structures, with minimum wages and with many other matters. In fact, the C.P.R. itself has from the beginning been subject to close regulation on many matters and to general supervision of its main policies and accepts the necessity for public regulation. At the same time, we wish to make it clear that there would be grounds for serious objections, if a body such as the Board of Transport Commissioners were to be subject to interference by the Government on its day to day operations."

MR. SHEPARD: Now the next heading, Mr. Moffat, is :
"The Board Should Act More Frequently on Its Own Initiative".
I understand you want to read that section as well.

A. "The Manitoba Government is of the view that the Board should not simply wait for applications and complaints to be raised before it and render a judgment on them. Rather, the Board and its staff should constantly be in close contact with the changing railway picture, and should take the initiative in directing the course of those changes when conditions warrant such steps. It has become too clear in the rate controverseries of the last few years, that the various groups interested in transportation matters are not equally aware of the implication of their own peculiar position, and are not organized with equal effectiveness to raise their problems before the Board. If the Board continues to act only on the request of some outside party, it is entirely possible that many

legitimate complaints may never reach it, if for no other reason than that the party concerned is unaware that its position is being jeopardized. Under such circumstances it seems proper that the Board should act without waiting to be called upon; that it should advise all of the interested groups that the problem is now under its consideration, and should request them to state their case before it. A decision could then be reached on the basis of these representations and on the basis of additional information supplied by the Board's own staff. Accordingly, Board decisions would come to depend in lesser extent upon the ability with which any one group is able to present its own point of view. Instead, the decisions emanating from the Board would reflect in greater measure, public policy - "

Now, there is a slight change there. That is a period, the end of the sentence, the . phrase "as laid down in the Railway Act" in the mimeographed section should be left out.

THE CHAIRMAN: Well, it is in the printed copy too. Does it remain?

A. No, it comes out.

MR. O'DONNELL: " as laid down in the Railway Act" comes out?

A. Yes and just ends with "public policy".

MR. CARSON: Public policy which is not subject to legislation?

1. It is the same discussion as we have had whether the legislation should be within statute or orders-in-council.

"It would be the Board's function to actively administer this policy rather than to wait for someone to complain of alleged inconsistencies between that policy and actual developments in the transportation field.

There may be objections to this recommendation on the grounds that it would involve some transfer of function of railway managements to the Board of Transport Commissioners. In asking that the Board take the initiative when circumstances warrant it, there may be a suggestion of some restrictions on the managerial functions. That is not the purpose of this recommendation, however. There is no intention that managerial decisions should be held up until they have first been ratified by the Administrative tribunal. Rather managements would be expected to carry on the day to day operations of the railways as before, but the Board would be required to see that the cumulative effects of those day to day decisions do not run counter to considerations of public policy. The Board should therefore serve as an independent check upon railway developments, without waiting for the railways or anyone else to draw to its attention, matters which seem prejudicial to some group or region".

(Page 8515 follows)

MR. SHEPARD: Q. Then would you go on to the last section of the chapter, Mr. Moffat, headed "The Board should be freed from the restrictions of its previous decisions"?

A. The Manitoba Government is of the view that th the Board should de the Board should decide questions which come before it, on their individual merits, quite apart from the fact that similar questions have been decided in a particular way in the past. Decisions which may have been quite proper and sound in the circumstances which prevailed two and three decades ago, will not necessarily be the best decisions to make today. While this may appear self-evident, it is still a fact that some recent Judgments of the Board seem to place undue emphasis upon solutions which are now, in our view, completely out-dated. This is not intended to suggest that precedent should have no place at all in the jurisprudence which will be built up by the Board in the future. The idea of stare decisis is definitely of value in that it enables the parties to a dispute to form some estimate of the decisions which will probably be reached. Furthermore, any board which attempts to follow any set of principles would, of course, give a similar decision on a similar set of facts. The point we wish to emphasize, however, is that in so far as there has been a definite realignment of interests in railway matters in this country in the last two decades, it seems desirable to effect a fairly complete divorce from the decisions of the past and to make a fresh start. It may well be that the revision of particular sections of the Railway Act which will be recommended in other sections of this submission, will provide a method of pushing the accumulated jurisprudence

of the Board into the background and of forcing it to begin anew.

Q. Turn to Chapter III, Mr. Moffat.

COMMISSIONER INNIS: Isn't there some contradiction in the first sentence:

"The Manitoba Government is of the view that the Board should decide questions which come before it, on their individual merits, quite apart from the fact that similar questions have been decided in a particular way in the past".

Then we go down to:

"Furthermore, any board which attempts to follow any set of principles, would, of course, give a similar decision on a similar set of facts."

A. Yes.

Q. Is there no contradiction involved there?

A. No, I don't think so, sir. The question is what facts you are taking into account. It may be that the situation thirty years ago and at present will be completely different, If you take into consideration facts which relate to the competitive situation, to the situation with respect to railway operation, and also facts with respect to developments outside the railway system completely, It is a question of how wide a range of facts you are going to take into account.

COMMISSIONER ANGUS: Are not the words "quite apart" a little too strong?

A. That is possible. It may be too strong when you say "quite apart", but the main emphasis is that they should not be bound by decisions when circumstances have changed over a period.

MR. O'DONNELL: Doesn't section 51 give them that power now?

MR. SHEPARD: I think Mr. O'Donnell will have an opportunity to discuss that later on.

MR. O'DONNELL: I thought as we went along it might be interesting to know what his view was.

MR. SHEPARD: Turn to Chapter III, Mr. Moffat. The heading is "Railway service -- standards and cost." I think, Mr. Chairman, if I might just read on the record now a short paragraph from the foreword which appears at the beginning of the printed statement, because it does give on page 7 of the printed statement a very short summary of what is included in chapters III, IV V and VI in one paragraph about two-thirds down page 7. It reads as follows:

"Chapters III, IV, V and VI deal with the standard of railway service and the cost of providing that service. The contention is that the people of Canada must be prepared to pay for the railway service provided in Canada, but that this carries the necessary implication that the Board, which is supervising railway operations on behalf of the public, should have the primary responsibility for deciding upon the standard of railway service, and should have the authority and responsibility to set up a more adequate method of determining the real cost of providing that service."

Mr. Moffat is now about to proceed to deal with "Railway Service -- standards and cost" in Chapter III. Mr. Moffat, will you proceed? I understand you are not intending to read all of the first section. Will you proceed to deal with them as you have in mind?

A. Railway Service -- Standards and Cost

In the preceding two chapters we have dealt with the philosophy and attitude which, in our view, should

underlie the changes which your Commission will recommend in the legislation and the administration which controls railway operations in Canada. We now turn from these discussions of general matters to a more specific consideration of certain aspects of the policy which, in our view, should be followed in the future. In that discussion we propose to consider three broad questions:

- (a) the standard of railway service which should be made available to Canadians;
- (b) the methods of determining the total expenses necessary to provide that standard of service;
- (c) the methods by which the amount of revenue necessary to cover those expenses is to be secured.

The remainder of this submission deals with various aspects of these three matters. In this present chapter we propose to deal with item (a) and with certain considerations which underlie item (b).

The Standard of Transportation Service

It is self-evident that the people of Canada must pay for the transportation service which is provided to them. It is true that there are various ways of paying for that service, but each of them eventually comes back as a charge upon the people of Canada as a whole or upon certain groups of Canadians.

The view of the Government of Manitoba is that since one of the fundamental facts underlying this whole problem is that the people of Canada must pay for this transportation service, it follows that the people of Canada as a whole have a right and a duty to insist that the standard of service which is provided is satisfactory and that it is provided at the least possible expense to those who must pay for it.

It is for this reason that the first item in the Manitoba brief of points is --

"1. The national system of railway transportation in Canada, including all the railway companies, is one of the fundamental basis of the general welfare of Canada, and consequently it is essential that this service should be maintained at a standard which is sufficient to provide adequate transportation for the products of Canada, but it is equally essential that the standard of transportation services should not be one which is beyond the capacity of the people of Canada to pay for."

As we have already pointed out in the chapter entitled "Regulation of Railways in Canada", this public control of the standard of railway service is a necessary counterpart of the fact that a public body has taken over the functions of determining the level of freight rates in Canada. The people of Canada have given to a board the duty and responsibility to determine the level of freight rates. That duty cannot be carried out satisfactorily if the Board takes the attitude that the railways can provide whatever standard of service they choose, and that the board's function is limited to determining the cost of that service and setting a level of freight rates which will meet that cost.

In the past the problem of the standard of railway service has not assumed great significance in the discussions as to the level of freight rates. In general, the Board has accepted the judgment of the railways as to the standard of service which is desirable for the country, and the people of Canada as a whole have been reasonably satisfied with that method of disposing of the matter. It is our view that it should now be made clear

that the ultimate responsibility in this regard lies with the regulatory body. In practice we feel that in most cases it will still be true that the suggestions made by the railway companies as to the standard of service will be reasonably acceptable to the public, but we feel that it is essential that the Board make its own investigations and come to independent decisions as to the advisability of setting higher freight rates in order to provide for a higher standard of service.

In its judgment in the 21 per cent case, the Board deals with this question of the standard of service in its analysis of the 1946 maintenance accounts. In that analysis there is no attempt to apply outside criteria or to make studies by the Board itself. Rather, the decision is to accept railway figures on the grounds that railway operating officials are in close touch with the situation and are better able to judge the standard of maintenance which is required. We agree that the railway engineers are more familiar with the problems of providing a given standard of service and of estimating the cost of that standard. A decision as to whether or not that standard is to be provided, however, involves matters which go far beyond the railway itself, and in those matters the railway officials can claim no particular expert knowledge. For that reason we feel that, although the opinions of railway officials should be given serious attention, the Board should not overlook the opinions of those who will be called upon to pay the costs of the service. It is our view that the Board should take all such submissions into account and after consulting independent expert advice, should reach its own conclusions as to what is desirable from the viewpoint of the country as a whole.

THE CHAIRMAN: What is meant by "independent expert advice"?

A. Consulting.

Q. You see, the Board has its own staff, I suppose. The railways have theirs. Is there then somebody else again?

A. No, the thought has developed in the last decade as to some discussion about administrative tasks. The suggestion is, the Board's own staff plus private consultants from time to time as a major problem arises.

The relationship between the people of Canada and the railway system is, in this regard, somewhat similar to the relationship between a large retail merchandise establishment and its delivery system. The problem is to decide the type of delivery service which is to be provided, which includes such questions as the frequency of deliveries to the customers, whether those deliveries are to be made in new modern trucks or in older and cheaper vehicles, and what proportion of the total revenue of the establishment is to be set aside to pay for the delivery service. One method of dealing with these problems would be to allow the manager of the delivery department full authority to settle them himself. So long as the total area served by the establishment continued to expand rapidly, and the number of customers and the volume of goods to be delivered continued to expand with it, it might be quite satisfactory to leave these matters in the hands of the transportation manager, for his natural tendency to expand and improve delivery service would be quite in line with the needs of the company. But it would always be clearly understood that his decisions were subject to review by the general manager of the entire organization. Once the full area

which was tributary to the store had been supplied with regular delivery service, there would eventually come a time when the general manager would need to assert his authority over the transportation manager and see that the activities of the delivery department were not inconsistent with the needs of the whole company in the new circumstances. It is our view that Canada's railways have now reached that position. New railways may be needed in some areas and new areas may be opened up in the future, but, in the main, the problem now is to make the best possible use of existing railway facilities. The rate of expansion and the standard of service to be provided is no longer a problem which can be safely left exclusively in the hands of railway management. It must now be considered as part of the over-all national economic policy.

During his cross-examination of Premier Campbell on the brief presented by Premier Campbell at Winnipeg on June 1st, Mr. Evans suggested that Item I of the brief of points as quoted above, was equivalent to a suggestion that the standards of service to be provided by the railways were to be laid down by statute.* In view of the discussion which followed, it seems desirable at this time to elaborate somewhat upon this item.

There is no suggestion that the Parliament of Canada should be asked to pass a statute which would say that the Canadian railways must not spend more than a specified amount in improving the standard of railway service or that any particular improvement should be made to their rolling stock or track. Rather, the suggestion is that in amending the present Railway Act it

should be made clear that the Board of Transport Commissioners has both the authority and the responsibility for supervising the general standard of transportation service provided in Canada. This would not be done on any mechanical basis by adding up national income and/or other statistical devices. Rather the thought is that from time to time the Board of Transport Commissioners should consider this matter and should reach a decision in the light of the relative prosperity of the country, the relative volume of traffic which is being carried and which is in prospect for the future, and other considerations which might be important at the time. The frequency with which such reviews would be made would depend upon circumstances. The railways might feel that an improvement program should be undertaken and might ask for a rate increase to cover its cost. On the other hand, a move for a change in rate levels initiated either by the railways or by the Government or the Board would automatically raise the whole question of the standard of service. In practice, it seems likely that the standard of service provided by the railways would not be seriously questioned unless it were so high that it led the railways to ask for a rate increase to support it or unless the railways began to show earnings at such a level that the public began to press for either a rate reduction or an improvement in the standard of service.

THE CHAIRMAN: Q. Just a moment, please. You say there:

"On the other hand, a move for a change in rate levels initiated either by the railways or by the Government or the Board would automatically raise the whole question of the standard of service."

Is it part of your submission that the Government itself should --

A. That goes back to the same point, sir, that the Government would have the authority by Order in Council to direct certain lines of policy. Consequently that carries with it the right to initiate inquiries as to whether the rate level should be changed.

Q. Well, perhaps you need not go further than what is going on now, where the Government directs the Board to proceed to the equalization of freight rates.

A. That sort of thing. As we see it, when that sort of problem is before the Board they must immediately face up to the question of the standard of service, whether it is one that the people should pay for or whether it is one that should be raised or lowered.

Q. All right.

A. I might say, speaking ad lib there, I said, "or lowered". I did not really mean that. What I mean is, whether the standard of service might be one that should not be covered by freight rates and that the level of rates should not be raised to provide that standard of service, although there is no question that the railways should not be allowed to raise their standard of service if they want to.

MR. SHEPARD: Q. In other words, I take it, Mr. Moffat, that you consider that a rate regulatory body such as the Board of Transport Commissioners cannot fix rates without inquiring into standards of service, and you consider that for rate-making purposes the Board should have control over the standard of service?

A. That is correct. It does not seem possible to set a level of freight rates that is satisfactory from the over-all point view of the country as a whole, simply by taking the existing standard of service, adding up the cost of it and saying, "This will be allowed, that is

necessary to provide for." You have got to pay some attention to that standard without any implication that the railways would be prevented from raising it if they wanted to raise it, and if they can do it without raising rates then it is quite within their jurisdiction to do as they like.

COMMISSIONER ANGUS: Isn't there just the possibility that it might work the other way around, that people might say, "We don't like these rates. You had better give us a rather cheaper service," and begin cutting safety standards, shall we say?

A. There is a danger, yes. There is always the argument as to what safety standards should be maintained, yes.

(Page 8526 follows)

Q. I suppose, Mr. Moffat, you recognize that there are two standards; there is a minimum and a maximum?

A. That is right.

Q. And the safety standard you would put as the floor?

A. That is correct.

Q. As far as the standard of safety is concerned.

Turning to the next section, Mr. Moffat, headed, "Estimating the Cost of Transportation Service," I understand you wish to read part and summarize part of that section. Will you proceed please?

A. At the beginning of this present chapter, we suggested that the discussions in the remainder of this submission would be divided into three broad categories. We have now dealt with the first of those broad categories, namely, the problem of determining the standard of railway service which should be made available to Canadians, and we turn to the second of those problems, that of determining the total expenses necessary to provide that standard of service.

When it is faced with a decision as to the level of freight rates which are to be charged in Canada, the Board will immediately find that it must reach a conclusion as to the amount of money needed to pay for the standard of railway service provided in the year which is under consideration, together with the amount, if any, which is to be provided for the purpose of improving the standard of service if the Board considers that such an improvement is necessary. In its attempts to reach conclusions on these questions, the Board will inevitably find that it must make a careful analysis of each of the main categories into which the railway expenditures are classified in the accounts of the railways. Having arrived at a conclusion as to the amount which should be properly included in each of those accounts, it can

then calculate the total amount necessary to cover the expenses of providing the standard of service which has been decided upon. Its decisions as to an increase in the rate level will then depend upon whether revenue from existing rates will be sufficient to pay that total and upon any other sources of revenue which are to be taken into account.

Now, the brief includes a table which was put in purely for illustrative purposes, to give some perspective as to the magnitude of some of these items. There is no argument developed from it at this particular point in the brief, except to give some idea of the approximate magnitudes, and I do not propose to comment on it other than to ask that it be taken into the record as it stands.

In order to provide some perspective as to the magnitude of the various items in railway expenses, the following table is presented from the 1948 annual report of the C.P.R.⁽¹⁾

	(\$ millions)
Maintenance of Way and Structures.....	68.4
Maintenance of Equipment.....	72.5
Traffic.....	7.7
Transportation.....	154.1
Other expenses, including taxes except income tax.....	<u>29.0</u>
Total.....	<u>331.7</u>

A somewhat different breakdown of this same total would be as follows:

	(\$ millions)
Wages ⁽²⁾	181.0
Depreciation ⁽³⁾	28.5
Cost of Materials and Supplies ⁽⁴⁾	106.4
Other.....	<u>15.8</u>
Total.....	<u>331.7</u>

- (1) Annual report - page 31.
(2) Annual report - page 40.
(3) Annual report - page 30.
(4) Exhibit 49/108.

In dealing with a rate increase application, the Board would, of course, give attention to each of these items and to the components of each of them. In this present submission, however, we do not propose to deal with each component but rather to devote our attention to a few of the more important of them. A separate chapter is devoted to depreciation charges and other methods of providing for the cost of assets used up, and another separate chapter deals with expenditures for maintenance of road and rolling stock. In this present chapter we propose to deal with certain broad questions which are applicable to expenditures generally, and to some aspects of the expenditure accounts which are not dealt with in the detailed chapters.

Q. Then turning to the next section, Mr. Moffat, which is on page 8 of Chapter III of the mimeographed submission, we see the heading, "The Elimination of Unnecessary Expenses." Will you please deal with that?

A. This section I would like to read directly as it stands:

In its attempts to determine the cost of providing a given standard of railway service, the Board should give careful attention to the need for eliminating all unnecessary expenses with a view to securing, for the people of Canada, the standard of service which is decided upon at the lowest possible cost consistent with that standard. The first point to which we would draw attention in this connection is that the Board should have the authority and responsibility to see that the Canadian railways take full advantage of the equipment available to them and of modern improvements which will have the effect of providing a satisfactory standard of service at a lower cost. Obviously, with the limited technical knowledge of these matters which is available to us, it is not possible for us to give any precise suggestions in

this regard. But it is our view that your Commission should recommend that the Board of Transport Commissioners should give continuous attention to this matter and that in considering the level of freight rates to be established, it should take into consideration the possibility that further improvements in railway operating techniques and in railway equipment might materially reduce operating expenses and consequently increase the operating profits which would be secured from any given level of rates.

COMMISSIONER ANGUS: Q. And if these required new investment?

A. There is the majority of a chapter, sir, Chapter VII, that deals with the question of financing additions.

THE CHAIRMAN: Q. You say you think that the Board in considering the level of freight rates to be established should take into consideration the possibility, and so on, of further improvements. In fixing rates to-day, how can they there and then take into consideration in fixing those rates the possibility of further improvements? Is that what you mean?

A. No, not precisely that. There is the possibility -- I am not suggesting that it is happening at the present time, but there is conceivably the possibility that the railways might be operating with the existing equipment and without having brought in new equipment, with the result that their losses were to some extent---

Q. Their own fault?

A. Their own fault; and that the Board should take that kind of situation into consideration, and that the---

Q. Well, that would be a present consideration; that is, the Board have an application before them, and they say, "We find that you would not require so much additional revenue if you had better equipment"?

A. That is the sort of situation, yes.

Q. That brings you up to the present; but I thought you were suggesting something else there, when you say that the Board "should take into consideration the possibility that further improvements in railway operating techniques and in railway equipment might materially reduce operating expenses." You do not want them to go into the future when they are considering a present application, do you?

A. Well, the future only to the extent that maybe next year they would bring in something that is now known and available, that might reduce the cost; it is that sort of situation.

Q. In that case the Board then on its own initiative should proceed to reduce the rates if they think it is proper to do so; is that right? You see, how can they at the present time take into consideration the possibilities of future improvements which might make the tasks of the railway cheaper to the railway? They cannot do it to-day; they cannot say, "We will give you so much to-day," when perhaps in five years' time there will be a different way of operating. You do not mean that?

A. No, it could not---

Q. Do you mean that they should keep a watch on the railways, and when they see that improvements are coming along they should reduce the freight rates accordingly? Is that what you have in mind?

A. No, I would not say reduce freight rates accordingly. It would be effective more in terms of the attitude which might be taken towards a request for an additional rate to cover improvements or the purchase of new equipment and that sort of thing. It would only come into play, as I conceive it, at a time when there is an application for

an increase in rates or when there is an application by someone for a reduction in rates, and this would not be a mathematical calculation; this would be one of the considerations underlying the general approach to the thing.

This question of the efficient use of railway resources is not limited to the use of plant and rolling stock but it applies to the use of labor as well. Both in the interests of maximum total production in Canada and in the interests of eliminating unnecessary railway expenses we feel that the present shortage of manpower in Canada calls for the utmost effort to see that full use is made of every man retained on the payrolls of the railways.

COMMISSIONER ANGUS: Q. When we had Mr. Kelly before us the other day, he complained that the railways had been doing this very thing, and he called it intensification and argued that the railway workers should get higher wages because of this policy. Would you give the Board control over wages in any way?

A. Well, as far as the question of wages is concerned, the next section comes to that very point. The thought here is, as in the preceding case, rather unprecise, simply to express the opinion that these are the sort of things that cannot be overlooked, although you cannot reduce them to any exact calculation as to what you should do about it.

We are fully aware that the requirements of safety under emergency conditions occasionally lead to situations in which there is an apparent duplication of functions among railway operating employees, and we would not suggest that such duplications should be eliminated. But many persons who are not familiar with railway operating conditions have formed the impression that duplication of functions among railway employees is not limited to situations

in which safety is involved. A major study by a highly qualified staff would be necessary to determine whether such unnecessary duplications are common and to assess the savings in operating expenses which might result if such duplications were eliminated. It is not our intention to suggest specific measures in this regard but as in the case of efficient use of mechanical equipment we feel that your Commission should recommend that the problem should receive attention from the Board of Transport Commissioners and that possible savings from its elimination should be taken into account in future rate cases.

Closely related to this matter of the efficient use of railway equipment and labor is that of the elimination of unnecessary duplication of railway service. In practice, the main problems of duplicate railway services arise from the fact that in many cases the two great railway systems of Canada provide services which are closely parallel to each other. This matter is referred to in Section 2(e) of Order-in-Council P.C. 6033 which directs that your Commission should:

"Review and report on the results achieved under the Canadian National-Canadian Pacific Act, 1933, and amendments thereto, making such recommendations as the present situation warrants."

Here again, the limited technical knowledge which is available to us makes it very difficult to offer concrete suggestions. We would point out, however, that in the hearings before the Board of Transport Commissioners on the 30% increase application, the Board held that it could not deal with this question because the Canadian National-Canadian Pacific Act provided that reports on its operation should be made to Parliament. It is our view that your Commission should recommend a change in this legislation so that in

future rate cases the Board of Transport Commissioners will be able to take into account, in its decisions, any evidence which is available with respect to co-operation between the two railway systems and the possible savings which might result therefrom.

COMMISSIONER ANGUS: Q. Would you limit that to rate cases, or do you think the Board should have continuing supervision?

A. Well, sir, the philosophy that we have been trying to build into this brief with respect to control over standard of service and that sort of thing is that the only time it is up for any concrete decision is when there is a decision as to the changes in the rate level, that so long as the rates go along rather smoothly and nobody is asking for an increase or a decrease, questions of standard of service and that sort of thing are more or less in the background, and the only time when any of these questions comes up is at a time when there has to be a decision with respect to rates, which would carry with it the implication that they might keep an eye on this thing as it went along from year to year, but no action would be called for except at a time when something is being done about the rate level.

Q. Do you mean that they would have a staff of experts who would come into being only when rate cases were up and be put on half-pay in between?

A. No. That problem again comes into the administrative section. The suggestion is that they might have a relatively small technical continuing staff, and a practice of bringing in outside consultants when problems come up.

MR O'DONNELL: Q. They have a staff now, haven't they, at all times, to your knowledge?

A. Yes, they have a staff now.

MR SHEPARD: Mr. Chairman, I think I might just

draw the Commission's attention to a paragraph in the majority judgment of the recent 8% interim award, which appears on page 11, under the heading "Economies effected pursuant to the Canadian Pacific - Canadian National Act of 1933." I will read just the first sentence;:

"Under the existing legislation, as provided in the Canadian National-Canadian Pacific Act 1933, this Board is not empowered to consider what degree of co-operation, if any, has been achieved by virtue of that Act."

THE CHAIRMAN: That is what your submission says, that returns are to be made to Parliament each year, that some committee of the House of Commons consider these things. Is that the idea?

MR SHEPARD: Yes.

THE CHAIRMAN: Perhaps of the Senate as well.

MR SHEPARD: Mr. Carson suggests that I read the balance of the paragraph::

"The respondents urge that a condition precedent to the granting of increases in freight rates should be proof by the railways that all economies contemplated by that Act have been achieved. While I do not subscribe to any theory which would result in placing an impossible burden on the applicants in this regard, I have however great sympathy with much that the respondents urge. At the present time it is beyond the Board's jurisdiction to inquire into that question, but I find again that one of the matters referred to the Royal Commission on Transportation in P.C. 6033 is that it 'Review and report on the results achieved under the Canadian National-Canadian Pacific Act 1933, and amendments thereto, making such recommendations as the present situation warrants. "

THE CHAIRMAN: What is the desideratum underlying all this? Is it that the Board should be empowered, equipped, so that it can go around pointing out things that might be done in the interest of economy by the two railways, ordering them to do it?

MR SHEPARD: Yes.

THE CHAIRMAN: Is that the idea?

MR SHEPARD: I think our submission would go that far, sir. I think the submission is that the Board should have the staff and the authority under the C.N.-C.P. Act or in some other way to see that there are any economies effected which should be and could be effected.

THE CHAIRMAN: And order the railways to do them?

MR SHEPARD: Yes.

THE CHAIRMAN: That would be a continuing inspection.

MR SHEPARD: A continuing proposition, yes.

THE CHAIRMAN: Orders emanating every once in a while; yes, I see.

MR SHEPARD: Q. Now, Mr. Moffat, turning to the next heading in Chapter III, "The Relation Between Wage Levels and Rate Levels, would you please deal with that section? I understand that you propose to read the first page -- and I take it, Mr. Chairman, that the figures included will appear in the record, without the necessity of being read, and Mr. Moffat can proceed to deal with them following where they appear in the brief.

THE CHAIRMAN: Yes.

THE WITNESS: A full study of the problem of transportation in Canada will not be complete if it does not take into consideration the wage load carried by the Canadian railways. It is the largest single item of their operating expense. In 1948 wage payments by the C.N.R. and

the C.P.R. totalled \$426.6 million, accounting for 57% of the total working expenses paid out in that year by the railways. Estimates provided by the two railways show that the increase of 17c an hour awarded in 1948 to all railway employees added \$67 million per year to the operating expenses of the two companies. The close connection between wage expenses and freight rates was pointed out to your Commission by Premier Campbell, in his presentation at the Winnipeg Regional Hearing, in these words:

"I do not wish to become involved in details regarding the relative importance of increases in operating costs resulting from wage increases, traffic volume increases, increased depreciation provisions, increased prices for materials, or increases from other causes. I merely wish to point out that all these items should be reviewed from the point of view of the public good. The recent freight rate increases have been authorized to cover higher operating costs. One of the important causes of these higher operating costs is the higher wage bill of the railways as a result of increases granted their employees. Thus, one of the issues is a decision as to whether Canadians should pay higher freight rates in order to ensure to many categories of railway employees a level of wages higher than that paid for comparable work elsewhere throughout Canada. In our view this is a matter which is too important to be overlooked in your deliberations."

THE CHAIRMAN: Q. Does that mean, then, that in fact the railway employees are receiving a level of wages higher than those paid for comparable work elsewhere?

A. Well, the figures are shown on the next page, sir; they speak for themselves.

THE CHAIRMAN: All right.

THE WITNESS: Recognizing the close relationship that exists between railway wage costs and railway operating costs generally and the amount of money which the Canadian people must make available to Canadian railways, either through freight rates or by some other method, we are submitting for consideration the 1946 and 1948 data from Exhibit 49/117 filed in the 20% case by the C.N.R.

Then there follows the table, which I would like to ask should be taken into the record as it stands. I might ask that the page be taken in completely; it would save reading the second table down at the bottom of the page as well.

CANADIAN NATIONAL RAILWAYS - CANADIAN LINES

Rates of Pay, 1946 and 1948,

Certain Classes of Employees

Classes of Employees	Rate 1946 \$	Per Hour 1948 \$
Sectionman - Line . . . . .	.69	.86
Sectionman - Yard . . . . .	.74	.91
B. & B. Carpenter . . . . .	.91	1.08
Car Inspector. . . . .	.98	1.15
Carman Helper . . . . .	.82	.99
Machinist's Helper. . . . .	.82	.99
Machinist's Helper. . . . .	.84	1.01
Coach Carpenter	1.05	1.22
Freight Carman		
Machinist	1.05	1.22
Boilermaker	1.0	1.22
Classified Laborer. . . . .	.72	.89
Common Laborer. . . . .	.68	.85

CANADIAN NATIONAL RAILWAYS - CANADIAN LINES

Rates of Pay, 1946 and 1948,

Certain Classes of Employees

Classes of Employees	Rate Per Month	
	1946 \$	1948 \$
Agent	197.21	230.00
Agent	223.21	256.00
Agent	228.21	261.00
Operator.	186.21	219.00
Operator.	198.21	231.00
Operator.	188.21	221.00
Comptometer Operator.	158.21	193.57
Typist.	153.21	188.57
Stenographer.	158.21	193.57
Clerk-typist.	163.21	198.57
Clerk-Stenographer.	168.21	203.57
Clerk	243.21	278.57
Clerk	108.21	133.21

Classes of Employees	Rate Per Day	
	1946 \$	1948 \$
Yard Foreman.	8.79	10.51
Yard Helper	8.30	9.66

Classes of Employees	Unit Miles	Rate	
		1946 \$	1948 \$
Loco. Engineer - Passenger.....	100	8.17	9.35
Freight.....	100	9.42	10.73
Loco. Fireman - Passenger.....	100	6.73	8.09
Freight.....	100	7.58	8.94
Conductor - Passenger.....	150	8.64	10.00
Freight.....	100	8.05	9.41
Brakeman - Passenger.....	150	6.64	8.00
Freight.....	100	6.73	8.09

The latest available statistical data issued by the Dominion Bureau of Statistics on Employment and Earnings by Industry, taken from the Labour Gazette of August, 1949, shows the average weekly salaries and wages for the nine

leading industrial groups as follows:

Manufacturing	\$44.45
Logging	44.58
Mining	49.68
Communications.	39.98
Transportation	51.09
Construction and Maintenance	40.83
Services	28.30
Trade	37.15
Finance	41.24
Average for the nine groups	\$43.08

COMMISSIONER INNIS: Q. There is no additional information as to the number of people who are employed at these different occupations?

A. You mean the occupations in the bottom table, manufacturing, logging, and so on?

Q. No; in the one on page 65 or---

A. The top of the table?

Q. Yes.

A. No; not available to me, sir; there may be in some of the exhibits; I am not aware of it.

I might point out that the first table here is taken from an exhibit in this case; the second table is taken from figures published by the Department of Labour on the basis of reports from the Dominion Bureau of Statistics.

Then, starting to read at the very bottom of page 12:

Within the Transportation group the employees in steam railway operations received the highest rate of all those listed, namely, \$56.64 per week. Within the Construction and Maintenance Group, employees in railway con-

struction and maintenance received an average of \$42.91 per week.

It is apparent, therefore, that wages paid to employees in steam railway operations in Canada are now at a level which compares very favourably with wages in the highest wage industries in the country and which is very substantially above the general average of wages in Canada. In view of this fact, and because there is, without question, a direct connection between wage increases and freight rate increases, the Manitoba Government believes this aspect of the transportation problem should receive your Commission's full consideration.

THE CHAIRMAN: Q. Do you recommend what might be done about it? What is the general import of this? That since these railway workers are getting higher wages there should be less of them required to do the work? What would be the general result that you have in mind?

A. Well, so far as my instructions and my authority from the Government are concerned, it is that this is the statement which the Government has authorized, and they would prefer that I should not express any further opinion beyond what is stated on the submission.

(Page 8541 follows)

THE CHAIRMAN: Well, I hope somebody will help us with it.

A. I can say this, that the objective in putting in this section at all is that it seemed desirable to us that such an issue of this magnitude should receive some public recognition and that the facts should be brought to the attention of the people of the country.

A. Well, it is not an issue unless somebody takes sides. For instance say you have locomotive engineers and you know what they are getting today and what they were getting in 1946. Is the inference that there should be less of them and each one should do more work or what is the idea?

A. No sir, I have not any suggestions.

COMMISSIONER ANGUS: When I asked a question about the previous section, about the intensification of labour, there seemed to be a sort of suggestion that the Board of Transport Commissioners should have something to do with it?

A. Yes, there was in that section.

Q. Is there that suggestion?

A. No, I don't think so in this case.

THE CHAIRMAN: Well, what do you mean by "intensification of labour"?

COMMISSIONER ANGUS: They were used by Mr. Kelly the other day suggesting that after an increase in wages the railways tried to show the people that there was no wastage, that every half hour was occupied. Mr. Kelly called it intensification but there was no suggestion that the Board of Transport Commissioners should have anything to do with it.

A. No, I don't think so.

Q. There is no suggestion that they should not?

A. No, there is no suggestion either way on that.

THE CHAIRMAN: Is there anything helpful in that?

A. Well, the view of the Manitoba government was that something helpful would come in the form of public opinion, letting the public look at the facts and draw their own conclusions but they did not feel that they should offer any suggestion as to what should be done about it.

Q. This submission, of course, is addressed to us, isn't it?

MR. SHEPARD: That is correct, Mr. Chairman.

THE CHAIRMAN: Did you have anything to tell us as to how these figures would be helpful to us?

MR. SHEPARD: Actually Mr. Chairman, I think as far as Mr. Moffat's instructions and my instructions are concerned, we were authorized to put this section in the brief simply pointing out the existing facts and it was considered, as Mr. Moffat explained, that the facts were such that if there was benefit to be derived to have that widely known, and that is as far as we can go. I admit quite freely it is not as helpful as we would like to put before the Commission but those are our instructions.

THE CHAIRMAN: All right.

MR. SHEPARD: Referring to Chapter 4, Mr. Moffat, "Estimating railway operating expenses" first of all and then it goes on to deal with the place of the Canadian National Railway in the making of freight rates, question of division between rail and non-rail assets and finally the general heading of "Railway Operating Expenses of the C.P.R." Now I understand that you wish to summarize the first three and a little bit up to the bottom of the top paragraph on page 4 of the chapter rather than read it. Would you proceed to do so.

A. I think a word of explanation of the heading of

this chapter might help clear up some misunderstanding. The heading itself is "Estimating Railway Operating Expenses" and the first problem to be tackled is which railway and what operating expenses, and that is how it happens that the first discussion is whether the C.N.R. is taken account of and the second question that comes up for discussion is which part of the C.P.R. corporation should be considered as part of the railway operations.

Now, so far as the Canadian National Railway discussion is concerned, we have thought it would not be necessary to read the entire section. There are two or three reasons, I believe it is three reasons, as to why we think that the present position should continue, namely, that the Canadian Pacific Railway should be used as the yardstick for rate making in Canada and our suggestion was that we would not read those at this time but simply start in at the end of the section at the top of page 4 of chapter 4 beginning "At this point we would like to refer parenthetically to subsection(c) of Section (2) of Order-in-Council P.C. 6033"

CHAPTER IV - ESTIMATING RAILWAY OPERATING EXPENSES

Item 2 of the Brief of Points reads:

"Since the railway transportation service must be paid for by the people of Canada, it is essential that some system be established whereby the expenditures and revenues of the railway system can be carefully scrutinized from the point of view of the public interest. In order that the level of railway rates can be determined on a basis which is fair both to the railways and to the public, a set of principles and a system of records must be adopted for use in determining what expenses are properly chargeable against those who use railway services and what standard of maintenance and improvements are desirable and necessary in the interests of Canada as a whole."

We have already expressed our view that the Board of Transport Commissioners should assume greater responsibility in regard to the decision as to what standard of maintenance and improvements are desirable and necessary in the interests of Canada as a whole."

In this chapter and the two which follow it, we deal with the system which should be established so that "the expenditures and revenues of the railway system can be carefully scrutinized from the point of view of the public interest." In these same chapters we deal with the "principles . . . for use in determining what expenses are properly chargeable against those who use railway services." The question of the records necessary for that purpose is covered in a separate chapter. Still another chapter is directed to a consideration of the over-all financial position of the company.

The Place of the C.N.R. in the Making of Freight Rates

Before any steps whatever can be taken toward a determination of the expenses necessary to provide a given standard of railway service, a decision must be reached as to what railway or group of railways is to be used as the yardstick in measuring expenses.

On first casual consideration, it would seem obvious that the practical thing to do would be to take into account all the railways and to base decisions upon the average position of all the railways. This is, in fact, the practice which is followed in the United States and which works out quite satisfactorily there. It should be pointed out, however, that in the United States, there are 30 or more Class I railroads, and that the taking of an average of 30 railroads automatically includes a number which are very efficiently operated and a number which are, for one reason or another, operated in an inefficient manner. The result is that freight rates based upon the average of all the railways, are such as to offer good incentives to the efficient railways in the form of an opportunity to earn relatively satisfactory profits while, at the same time, putting strong pressure on the less efficient railways to improve their operating methods. In Canada such a system would be completely impractical for the simple reason that there are really only two major railways and the peculiar characteristics of each are so important that any average would inevitably prove unsatisfactory as a measure of the needs of either of them.

In the past, the practice in Canada has been to use the results of the C.P.R. as the yardstick for determining rate level cases. The reasons for omitting the C.N.R. from such consideration have been stated at

length in a number of arguments and decisions over the past 30 years. The first reason is the fact that the capital structure of the C.N.R., based as it is upon a reorganization of a number of bankrupt or near bankrupt lines, is such that its fixed charges are far in excess of those for comparable railways on the North American continent. Consequently, to set freight rates at a level sufficient to cover operating costs of the C.N.R. and to pay C.N.R. fixed charges would mean that the people of Canada were being called upon to provide to the C.P.R. a level of rates far in excess of anything which could be justified by the needs of the C.P.R. alone. In our view, this by itself, is a sound reason for rejecting the C.N.R. as a yardstick.

In addition to the question of the capital charges and corporate structure of the C.N.R., there is the question of the current operations of the C.N.R. This aspect of the matter has not, in the past, received the same amount of attention, but it is the view of the Manitoba Government that it is of even greater significance than the corporate structure aspect. Even if the corporate structure and capital charges of the C.N.R. should be reorganized along lines similar to other railways, it would still be true that current operating expenses of the C.N.R. include the cost of operating a substantial number of lines which would not be kept in operation if the only criteria were those which apply to a commercial enterprise. A number of such lines were built for reasons of national policy, either national defence or the opening up of new areas and territories, and are now operated as part of the C.N.R. We might mention as examples, the line from Jasper to Prince Rupert; the line from Nakina to Quebec;

and the intercolonial line from Levis to Halifax. We are not here questioning the fact that the welfare of Canada requires that these lines should be maintained in good working order. That is quite another matter. But if these lines are to be maintained for reasons which would not apply to an enterprise operating according to ordinary business considerations, then we are of the view that it would be unsound to establish a level of freight rates to be charged in Canada, sufficient that the revenue to the C.N.R. would allow it to maintain and operate these lines. If that were done, the revenue to the C.P.R. would be above its operating needs by a corresponding amount and the C.P.R. would have a level of profits substantially in excess of what could be justified in relation to the C.P.R. alone.

As in the case of the high fixed charges of the C.N.R., so in the case of these uneconomic lines, it is our view that it would not be sound policy to establish a level of freight rates which would allow these high charges to be met out of C.N.R. revenue alone without regard to the needs of the C.P.R.

Still a third reason for insisting upon the use of the C.P.R. as the yardstick for rate-making, lies in the fact that the C.P.R. is a privately owned railway operating in competition with the C.N.R. Unless the level of Canadian freight rates is high enough that the C.P.R. has a reasonable opportunity to earn a satisfactory return if operated efficiently, it cannot maintain itself as a privately owned enterprise. On the other hand, the people of Canada will insist that the level of Canadian freight rates must not allow the C.P.R. to earn exorbitant profits for its shareholders. If there is any widespread feeling that exorbitant profits

are being earned, the status of the C.P.R. as a private corporation will be seriously challenged. For these reasons it is our view that, in the future, the level of freight rates in Canada will have to be geared closely to the needs of the C.P.R. unless the C.P.R. is to face the risks of bankruptcy or nationalization.

To attempt to base freight rates upon the overall position of the C.N.R. or even upon an average of the C.P.R. and the C.N.R. would, in our view, greatly magnify these risks. For these reasons it is our view that the principle which has been established in the past is still sound and that the C.P.R. should continue to be the yardstick for rate-making.

MR. MOFFAT: At this point we would like to refer parenthetically to subsection (c) of section(2,) of Order-in-Council P.C.6033 which directs your Commission to consider whether it would be advisable to establish and maintain the fixed charges of the C.N.R. "on a basis comparable to other major railways in North America".

The reference in this subsection is to fixed charges alone. It is our view that any reorganization of the financial structure of the C.N.R. must take into account a number of other factors of which one is the element of current operating expenses which represents the losses on uneconomic lines. Another is the peculiar position of equity capital in the C.N.R. when compared to privately owned lines. We do not propose to discuss these matters further in this present submission except to express the view that the mere scaling down of the fixed charges of the C.N.R. without regard to the other factors, would be far from a satisfactory solution of the financial problems of the C.N. R.

Our views with respect to the financial position of the C.N.R. and with respect to the position of the C.N.R. in the determination of the level of Canadian freight rates, shouldnot be interpreted to mean that we think the C.N.R. should be ignored in these matters. The C.N.R. is a major factor in Canadian transportation. In miles of track, in tonnages moved, in number of employees and in nearly all measures of size, it far surpasses the C.P.R. The standard of service offered by it compares favourably with the C.P.R. and in many aspects of its operations, its practices and experiences follow closely these of the C.P.R. Careful attention should therefore be given to its operations and its results will be of great assistance in estimating the cost of many specific services. But we are strongly of the view that the overall total results of the C.N.R. should form

no part of the calculations which determine the level of freight rates to be charged in Canada.

Individual aspects of its operation will, however, be extremely important, both for their own sake and for the sake of comparisons with the C.P.R. We have in mind, here, such items as the maintenance practices, the depreciation provisions, the changes in operating costs as a result of changes in wage rates or in prices for materials and supplies. A study of one or more of these expense items over a period of years for the C.N.R. may be very revealing as compared to the experience of the C.P.R. on the same items. For example, if the C.N.R. has increased its maintenance expenses by 50% during a period when the C.P.R. has increased its maintenance expenses by 65% that in itself would indicate that careful attention should be given to C.P.R. maintenance policy before its maintenance expenses could be accepted as a measure of necessary and proper maintenance costs. Similarly, if C.N.R. annual depreciation provisions had been such that in 30 years they would have equalled the total of depreciable capital investments, while C.P.R. annual depreciation had been such that the total value of depreciable capital would have been accumulated in 25 years, a study of that feature would also be indicated.

But, the relative magnitude of these various items in the two railways and the relationship between revenue and expenses and between net revenue and capital, are so different in the two railways that it would be fundamentally unsound, in our view, to take the total overall results of the C.N.R. as the basis for calculations leading to the establishment of a new general level of freight rates.

COMMISSIONER INNIS: You have emphasized the words "overall" in I think those two paragraphs. Will you go back to page 68 in the printed form "In addition to the question

of the Capital charges and corporate structure of the C.N.R. -- " where you mention various lines which were built for various purposes, are we to infer from that, that there were lines that were built for purposes of profits in the ordinary purpose of construction?

A. In the Canadian National Railway system?

Q. Yes.

A. Yes, a good many.

Q. Would you care to say that those lines which are not mentioned are of that character or have you simply taken those as examples?

A. These are just a few of the examples in Canada not intended to be inclusive of the others.

Q. You have not attempted to break down the Canadian National into two divisions, one built on the national policy and national defence and the other as coming within the standard you would lay down for the C.P.R.?

A. No, these were just examples. There may be others ^{there} and may not. We have not given any particular attention to drawing a line there.

Q. You are simply putting your whole emphasis on this "overall"?

A. Yes and on the third reason which is stated just below that.

MR. SHEPARD: Mr. Moffat, in regard to the next section under the heading "Rail and Non-Rail" I understand you are simply going to deal with the last paragraph in that section which starts at page 7 of Chapter 4 of the mimeographed statement, and on page 72 of the printed statement?

A. Yes, the statement made here is that there should be a clear-cut division between what parts of the C.P.R. corporation are to be considered as rail and what parts are to be considered as non-rail.

Rail and Non-Rail

The range of activities carried on by the C.P.R. makes it clear that some decision must be reached as to which of those activities are to be taken into account in calculating the revenue and expenses of the C.P.R. for the purpose of determining the level of freight rates in Canada. This is a matter which received considerable attention in the recent rate cases and upon which a large volume of detailed evidence is available. We do not propose, however, to attempt to analyze that evidence. For the purposes of your Commission, it seems much preferable to direct attention to the principles which should be followed in making the division between those C.P.R. activities which are to be considered as rail activities and hence taken into account in freight rate calculations, and those activities which are to be considered as non-rail activities and hence excluded from such consideration.

It seems to us self-evident that the first principle in this regard should be that once a decision has been reached to include a given activity in the rail category, then that activity should be included in the rail revenue accounts, the rail expense accounts, and the rail capital accounts. Similarly, if a given activity is classified as non-rail and its revenue is not added into rail revenue then it should follow that the current expenses and capital charges appropriate to that activity should also be excluded from rail expenses and rail capital charges.

This principle seems to us so sound that it needs no argument in its support but its application in practice will require close scrutiny of C.P.R. accounts and may, upon occasion, require the arbitrary division of certain items between the rail and non-rail accounts.

The second principle which, in our view, should be followed in the division between rail and non-rail, is that the rail category should include all activities which are an integral part of the railway transportation activities of the company. We fully realize there are a number of the activities of the C.P.R. corporations which do not clearly fall either into or out of the group "which are an integral part of the transportation activities." It is our view, however, that the rail category should include all the activities of C.P.R. express and C.P.R. telegraphs and that those water transport facilities which are direct links between rail facilities should also be included. On the other hand, it seems equally clear that assets such as C.P.R. holdings in Consolidated Mining and Smelting and activities such as ocean steamships, belong in the non-rail category. A careful and comprehensive study would be required, however, to reach a final decision on the more doubtful activities such as C.P.R. hotels, and on items such as the Soo Line Railway and the Toronto Terminal facilities where C.P.R. owns a part or a full interest in an enterprise which is very closely related to C.P.R. rail transportation but which may or may not be considered an integral part of C.P.R. rail transportation.

Our position on this matter was stated in Item 11 of the Brief of Points, which reads as follows:

"It is our view that an accounting division of the C.P.R. corporation should be made between railway operations and non-railway operations both for capital purposes and for the purposes of current revenue and expenses. It is our submission that certain activities which are not completely railway operations, are so closely

allied with the railway, that for operating purposes they should be considered as part of the system."

In this same connection also, we would suggest that your Commission should undertake its own study or recommend that the Board should undertake a study of the possible advantages which might result from a consolidation of the various corporate entities which own sections of rail lines which are operated as part of the C.P.R. Such a project would require careful study of the legal, accounting and financial matters involved and of the effect upon the capital position of the C.P.R. generally. We have made no such study nor do we feel that any study which we might undertake could be sufficiently complete. In our view such a study could only be satisfactory if it were undertaken under the direction of some body which would have full access to all the records of the corporations involved and which was acting on behalf of the people of Canada as a whole and not on behalf of any one interested party.

In concluding our remarks on this subject, we should make it clear that our suggestions with respect to the division of the C.P.R. corporation between its rail and non-rail components, is a suggestion for an accounting division only and for rate-making purposes only. From the point of view of over-all financial stability and the resulting ability to finance on a cheaper and more satisfactory basis, we can see important advantages in the present corporate structure of the C.P.R. which covers both rail and non-rail activities. The disadvantages of that structure from the viewpoint of sound public supervision of railway transportation policy, can, in our view, be adequately

disposed of by an accounting division without losing the advantages of the larger corporate structure.

COMMISSIONER INNIS: Did you say "railway transportation policy"? That is not in the printed copy.

A. That must be a misprint sir. It is "policy" in the mimeographed brief. The sentence reads this way "The disadvantages of that structure from the viewpoint of sound public supervision of railway transportation policy - ". I don't think it makes any difference in the sense.

MR. SHEPARD: Now proceeding to the final section in Chapter 4, Mr. Moffat, I understand that you wish to deal with the figures shown on page 9 and then deal with the last three paragraphs?

A. This section is the first time that the brief attempts to deal with the actual C.P.R. operating expenses in its attempt to give a quick review of the overall effect. The following chapters then deal with these specific parts of the situation.

THE CHAIRMAN: Since you have not read it, that portion of the chapter which is rail and non-rail, what do you recommend?

A. It is at the bottom of page 6 of chapter 4.

Q. This is chapter 4?

A. Yes, at the bottom of page 6 of that chapter in the mimeographed copy.

MR. McLEAN: It is the middle of page 71 starting "It is our view however - ".

MR. SHEPARD: About half way down the paragraph.

THE CHAIRMAN: " - that the rail category should include all the activities of C.P.R. Express and C.P.R. Telegraphs and that those water transport facilities which are

direct links between rail facilities should also be included. On the other hand, it seems equally clear that assets such as C.P.R. holdings in Consolidated Mining and Smelting and activities such as ocean steamships belongs in the non-rail category." Do you mean that those activities or the revenue or loss from those activities should not be considered in accounting the set freight rates?

A. That is right, revenue, expenses from share of corporate financing and any other aspects of their operations would not be taken into account.

Q. That may be set aside?

A. Yes sir. It goes on in the next sentence to give some cases where there is some doubt as to just what could be done with it. The breakdown gives some on one side and some on another, and we indicate that there was a fairly substantial group that we had not come to a conclusion as to how they should be handled.

MR. SHEPARD: Will you carry on with the next section, Mr. Moffat.

Railway Operating Expenses of the C.P.R.

The 1948 Annual Report of the C.P.R. shows total railway operating expenses as \$336.8 million. This applies only to those aspects of the total activities of the C.P.R. which it, itself, classifies as rail operations. As already indicated, it is our view that certain other activities should be taken into account but for the purpose of illustration in the following discussion, we have been forced to use the rail accounts as applied to the group of activities which the C.P.R. classifies as rail.

In attempting to decide the level of freight rates which is proper for Canada, one of the first steps taken by the regulatory body must be a detailed examination of this figure and its components to determine whether it represents the amount which is properly chargeable against the people of Canada as representing the cost of providing the standard of railway service which the C.P.R. provided in 1948.

We do not propose to deal, in this present submission, with all the issues which such a scrutiny would entail but certain highlights require illustration.

One of the most revealing tests of any figure of this type is to compare it with the corresponding figure in previous years. As soon as such a comparison is attempted, however, it is discovered that the figure of \$336.8 million is not comparable with the figure for earlier years quoted in the Annual Report.

In the first place the 1948 railway operating expense figure includes the sum of \$2.5 million as the

amount paid as income tax in respect to rail earnings during 1948.⁽¹⁾ In the accounts for earlier years, the C.P.R. has added into rail operating expenses, the total of all income tax in respect to all the income of the entire corporation, both rail and non-rail. In the second place the 1948 railway operating expense figure includes \$2.6 million paid out for joint facility rents and for hire of equipment.⁽²⁾ In the earlier years these two items were deducted from railway operating revenue rather than being added to railway operating expenses.

The following table has therefore been prepared showing railway operating expenses for the years since 1935. In each case, expenses for income tax and for joint facility rents and for hire of equipment, have been eliminated.⁽³⁾

<u>C. P. R.</u>	
<u>Operating Expenses</u>	
<u>Year</u>	<u>\$ million</u>
1935	107.1
1936	115.2
1937	121.3
1938	121.5
1939	122.8
1940	132.0
1941	163.1
1942	187.4
1943	220.0
1944	255.3
1945	261.9
1946	258.7
1947	283.7
1948	331.7

Average operating expenses for the 5 years 1935 to 1939, were \$117.6 million as compared to \$331.7

(1) Annual Report - page 9.

(2) Annual Report, - page 9.

(3) 1935 to 1947, from Exhibit 49/49; 1948 from Annual Report.

million in 1948. The increase, therefore, was \$214.1 million. In other words, operating expenses in 1948 were almost three times as great as in 1935-39.

Two questions naturally arise:

1. Were these increased expenses "desirable and necessary in the interests of Canada as a whole" and does the 1948 figure represent the amount which is properly chargeable as the cost of providing the 1948 standard of service?
2. To what extent have the increased expenses been paid for by increased revenue resulting from increased traffic volume and increased freight rates already in effect?

In its essential aspects, the long series of hearings before the Board of Transport Commissioners constituted an attempt to answer these questions and to decide what additional revenue, if any, the railways required.

On page 9 there is a table which gives the C.P.R. total operating expenses for the period from 1935 to 1948. You should read the two sentences immediately ahead of that table to get the context - "The following table has therefore been prepared showing railway operating expense is for the years since 1935 - ".

THE CHAIRMAN: Who has prepared these? Are these the C.P.R.'s. own figures?

A. These are taken from the annual report except, as the next sentence points out: "In each case, expenses for income tax and for joint facility rents and for hire of equipment have been eliminated on the basis of Exhibit 49 - 49 of the 20% case". So these are operating expenses excluding income tax and excluding joint facility rents and hire of equipment. The point we wish to make here is the tremendous increase in operating expenses that has

happened during that period. The increase on the average is \$214.1 million compared to the average of 1935 to 1939 against the year 1948.

Now on the following page we give the corresponding figures for the increases in operating revenues and we point out that although there has been this tremendous increase in operating expenses there has been a corresponding increase in operating revenues. I may read two paragraphs there which summarize the conclusions.

It is not our purpose in this present context to deal in any detail with increased earnings, but in order to give some indication of the situation we would like to quote the corresponding increases in gross earnings. In 1948 the gross earnings of the C.P.R. amounted to \$352.6 million compared to \$141.4 million on the average from 1935 to 1939. As compared to that five-year period therefore, 1948 railway gross earnings had increased by \$211.2 million. In other words, the increase in gross earnings was almost exactly equal to the increase in working expenses. The working expenses increased by \$214 million as compared to a revenue increase of \$211 million.

Continuing then to the next paragraph: during the hearings of the 20% Case the C.P.R. presented estimates of the revenues and expenses which would have resulted from a full year's operation, at the volume of traffic which was handled in 1948, and at freight rates, wage rates and material prices which prevailed at the beginning of 1948. In those figures the revenue increase since before the War, was just slightly greater than the expense increase in the same period. It might also be pointed out that if the comparison is between the present position and the position in any of the years 1935, 1936,

1937, 1938 or 1939, the same situation is true. In every case the increase in revenue has been slightly larger than the increase in operating expenses.

Now, that section was put in for two purposes, one to give some idea of the magnitude of the figures we figured with and secondly to point out that there has been this tremendous increase in operating expenses and an almost identical increase in operating revenues over the last fourteen years.

In the following two chapters we deal in detail with two categories of expenses and make certain suggestions as to how the Board should proceed to reach a decision as to the amounts which should be made available to the railway for these purposes. We deal first with the provisions which are made to return to the company the funds laid out to buy the equipment which is used up. In the succeeding chapter we deal with the amounts spent to maintain the roadway, structures and rolling stock which are used by the company.

MR. SHEPARD: Mr. Chairman, that is the end of a chapter if it was your intention to adjourn at a quarter to five.

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COMMISSIONER INNIS: Q. I would like to raise one question on that chapter before adjournment. At page 70 of the printed brief, just before the "Rail and Non-Rail" section, you say, "Individual aspects of its operation will, however, be extremely important," and so on. You have not indicated, for example, the extent to which one railroad would be an exact duplication of the other railroad, because they are both watching each other, and the ratios and cost tend to be exactly the same or more or less exactly the same, and the extent to which that accounts for any disparity?

A. No, there was no discussion of that in there.

This discussion was simply limited to saying (1) we thought it should be C.P.R. in total, and (2) there were many aspects of C.N.R. which offered very important and very useful yardsticks against which C.P.R. could be measured and from which some idea could be secured as to what the C.P.R. results indicated.

Q. It would seem to be very important to know how far they did have accounts as far as possible the same, because they were using the same system of accounting, or the accountants were watching each other as to what system they were using, and consequently the results were quite meaningless?

A. Well, there is another section toward the end of the brief that deals with the question of uniformity of accounts and standard of accounts for the purpose of getting the information available to the public in a form that will make possible these comparisons.

MR EVANS: Perhaps I could help you, sir. There was evidence in the rate cases of a difference in maintenance cost itself, apart from difference in accounting.

COMMISSIONER INNIS: Yes; I can see in special

items one gets very sharply to the point.

THE CHAIRMAN: We will adjourn, then, until tomorrow morning at half-past ten.

---The Commission adjourned at 4:49 p.m. to meet again on Tuesday, November 15, 1949, at 10:30 a.m.

le 11 novembre 1949

séance du matin.

YVES POISSON

appelé.

Mr. Desmarais: There is a supplementary of the brief by the Chamber of Commerce to be added to this, to be presented by the Secretary of the Chamber.

Q. Votre nom est Yves Poisson, je crois?

R. Oui, monsieur.

Q. Vous êtes le secrétaire de la Chambre de Commerce de Québec?

R. Je suis un des deux secrétaires.

Q. Depuis quand l'êtes-vous?

R. Depuis trois ans et demi.

Q. Combien de membres y-a-t-il dans votre Chambre de Commerce?

R. Environ 150, tous des hommes d'affaires.

Q. Maintenant, je comprends que le mémoire présenté par M. Power était un mémoire tant pour la cité de Québec que pour la Chambre de Commerce de la cité de Québec?

R. Oui, monsieur.

Q. Vous désirez, ce matin, présenter un mémoire supplémentaire à ce principal mémoire?

R. C'est exact.

M. Desmarais: Maintenant, je crois qu'il serait à propos, monsieur le président, de produire ce mémoire supplémentaire, ainsi que certaines pages auxquelles M. Poisson référerait, comme exhibit 118. Ce mémoire n'a que deux pages et demie et M. Poisson désire le lire.

Le Président: Qu'est-ce que c'est que ces feuilles annexées au mémoire?

R. Ce sont des tableaux. Voici, M. Desmarais, en entendant le témoignage de M. Power j'ai pris quelques notes qui pourraient peut-être être utiles à ajouter. Est-ce que je dois faire cela avant de présenter autre chose?

M. Desmarais: Parlez fort.

R. Je dis que pendant le témoignage de M. Power j'ai pris quelques notes qui pourraient être utiles, peut-être. Est-ce que je dois ajouter ces choses-là avant de présenter l'autre mémoire ou faire mes commentaires tout de suite.

Le Président: Comme vous voudrez.

R. Très bien.

Le Président: Plutôt, présentez donc vos commentaires immédiatement.

R. Il y a une question qui se pose au sujet des désavantages que la ville de Québec a à subir au point de vue navigation et au point de vue naturel et artificiel.

Comme désavantage artificiel, je tiendrais à attirer l'attention sur le fait de la politique des compagnies de navigation océaniques, ou même les compagnies de navigation fluviale, de la tête des Grands Lacs ou fleuves et jusque dans le bas du Saint-Laurent où les navires des Grands Lacs descendent parfois.

Les navires océaniques arrivent au Canada avec des cargaisons dont la plus grande partie est destinée à Montréal, ou à l'ouest de Montréal, ou à Montréal pour distribution dans la région immédiate et une plus petite proportion est destinée au port de Québec et à la région de Québec. A cause du fait que pour arrêter et décharger une petite cargaison à Québec, où les frais sont aussi considérables que ceux qui existent au port de Montréal pour décharger une cargaison ordinaire, les compagnies de

navigation ont décidé d'y décharges toutes leurs cargaisons de Québec et de payer elles-mêmes le transport des marchandises de Montréal à Québec par chemin de fer. Pour s'éviter de payer des frais additionnels de transport par chemin de fer, de Montréal à Québec, il est évident qu'elles cherchent le plus possible à attirer les marchandises au ppôt de Montréal pour ne pas avoir l'obligation d'arrêter à Québec en montant ou en descendant et inversement.

Q. De quelles compagnies s'agit-il?

R. A ma connaissance, c'est la politique générale de toutes les compagnies.

Q. Des compagnies étrangères aussi bien que des compagnies canadiennes?

R. Oui, monsieur. En ce qui concerne la navigation sur les Grands Lacs, je comprends que depuis la guerre il y a un manque de navires, ce qui a empêché les bateaux de descendre jusqu'à Québec, faute de temps. Dans certains cas, cela a été ça. Par contre, et le même problème se pose dans le sens inverse quand on parle de la navigation des Grands Lacs au fleuve Saint-Laurent, les compagnies sont certaines de placer dans leurs bateaux des cargaisons complètes à Montréal pour le remonter sur les Grands Lacs et elles évitent ainsi de descendre à Québec, ce qui d'ailleurs ni leur donnerait pas un sou de plus en vertu du taux de Fort-William à Québec pour transporter le grain et, en particulier, l'avoine et l'orge, parce qu'il est exactement le même que pour le port de Montréal.

Ces compagnies-là ont, évidemment, automatiquement la même tendance à attirer à Montréal les marchandises qu'elles sont en mesure de transporter.

Ce sont là des désavantages artificiels. Ils proviennent, évidemment, de la situation géographique.

Au point de vue du chemin de fer, je ne suis pas un spécialiste en chemins de fer, en autant que je puisse me rendre compte de la situation avec les contacts que j'ai avec les hommes d'affaires, et les hommes de chemins de fer occasionnellement, le fait que le chemin de fer a de grandes gares centrales à Montréal, comme par exemple à Toronto et à Winnipeg, peut, automatiquement et par la force des choses, agir contre les centres économiques de moindre importance.

A l'appui de cette affirmation, je puis citer un cas très frappant, celui d'une maison de gros de Québec qui avait expédié une commande de marchandises à Victoriaville, située sur la voie principale de Québec à Richemond.

M. Desmarais: Quelle distance de Québec?

R. Environ 70 ou 75 milles par chemin de fer. Au lieu d'expédier la marchandise de Québec à Richemond, par la voie qui dessert cette partie-là de la rive sud, cette marchandise-là est allée de Québec à Montréal et est allée brûler au feu de la gare Bonaventure. C'est la réclamation de l'acheteur qui a occasionné que des recherches aient été prises par l'expéditeur pour trouver sa marchandise.

Q. Combien de milles cette marchandise aurait-elle parcourue avant de se rendre à sa destination soit Victoriaville?

R. En passant par Québec?

Q. Non, de Québec à Victoriaville?

R. De Québec à Montréal il y a environ 163 milles par chemin de fer et de Montréal à Victoriaville il y a un peu plus de 100 milles, 102 ou 103 milles, je pense. Je tenais à ajouter cela comme illustration.

Le Président: Qu'est-ce que vous proposez pour remédier à cela? Est-ce que vous exposez certains remèdes dans votre mémoire?

R. Oui, monsieur et je les développerai à mesure avec ceux du mémoire que j'ai là.

Q. Est-ce seulement les ports que vous couvrez?

R. Non, il est question du progrès industriel à Québec. M. Power a déjà dit une des raisons pour laquelle les usines de Saint-Malo ont été recherchées. C'est parce qu'elles ont été offertes à un prix très avantageux. Je suis au courant que,--je n'ai pas de chiffre à citer,--même si les compagnies, qui ont pris possession de ces usines-là voulaient se mettre à faire de la spéculation sur les immeubles qu'elles auraient valu la peine d'être achetées seulement pour cela. Et au moment où la vente des usines de Saint-Malo était faite, il existait dans le Canada une rareté de matériaux de construction et une rareté de bâtisses pouvant servir à des établissements industriels. Il n'y a aucun doute que ce facteur-là a largement contribué à contre-balancer pour une période de temps, qu'il est impossible de fixer, les désavantages que nous avons à subir au point de vue de l'expédition et du transport par chemin de fer en particulier et aussi par navigation évidemment.

Une autre des raisons pour laquelle les industries ont voulu s'établir à Québec c'est que Québec est reconnu pour être une ville où la main d'oeuvre est passible et stable et où elle s'offre aussi à un prix beaucoup moindre qu'à d'autres endroits du Canada.

Québec est un centre qui attire vers lui tout le bas du fleuve et le lac Saint-Jean et le Saguenay en particulier. Quand je dis le bas du fleuve, je parle des deux rives.

Il y a une population qui s'éloigne des régions rurales pour toutes sortes de facteurs économiques que je n'ai pas besoin d'expliquer ici et elle arrive à Québec. A cause de cet élément on a toujours, même dans les périodes les plus prospères, même pendant la guerre ou cependant il y en a eu en moins grande quantité, on a toujours eu huit ou dix milles chômeurs. Ce facteur contribue à diminuer le coût de la main d'oeuvre. Je pense que l'industrie est intéressée, évidemment, à aller dans des endroits où la main d'oeuvre est meilleur marché.

La troisième chose que je voudrais ajouter, et ce que M. Power a déjà dit, consiste au désavantage d'être, à Québec, comme ailleurs d'ailleurs, sous la juridiction des ports nationaux. Le port de Sorel est un port administré par des gens de l'endroit et qui sont maîtres de leurs décisions et qui peuvent offrir des taux quelconques sans être obligés d'écrire à Ottawa ou de télégraphier pour pouvoir charger de fauteuil.

A Trois-Rivières, cela c'est un port sur lequel il y a eu une réelle discrimination envers Québec. C'est un autre port sous la juridiction des ports nationaux. On a permis d'y construire un élévateur à grain. sur la propriété des ports nationaux alors que cet élévateur à grain est administré par une entreprise privée qui a le droit de demander les taux qu'elle veut pour recevoir ou expédier le grain ou l'entreposer. C'est un des nombreux exemples que je pourrais donner des désavantages des ports nationaux.

C'est assez difficile avant d'avoir fait une enquête très spéciale de se prononcer sur la façon dont on pourrait faire une proposition concrète.

Mais, il nous semble, nous qui sommes prêts des ports, qui avons eu l'occasion de les visiter à plusieurs reprises, que le principal facteur qui pourrait

influencer la politique des ports nationaux c'est d'équilibrer le budget de chaque port. S'il n'y a pas assez de revenus pour entretenir l'aménagement du port, c'est bien de valeur, mais on le laisse tomber. C'est le cas pour un nombre de hangars qui sont tellement avariés par le temps et l'absence de réparations qu'il semble qu'il ne serait pas avantageux de les réparer. Même on va décider prochainement, je l'ai entendu dire, de les démolir complètement pour s'en débarrasser. C'est un exemple de la façon dont l'organisation des ports nationaux peut nous servir.

Si l'on avait un organisme local, peu importe la publicité faite au port de Québec, en ce qui concerne aussi les dépenses administratives à faire pour satisfaire la clientèle des environs de Québec, de la région économique de Québec, il y aurait certainement moyen d'obtenir beaucoup plus de circulation dans le port de Québec.

Je vais citer un exemple que j'ai moi-même étudié ces jours derniers, l'expédition du fromage, à laquelle M. Power a fait allusion dans son mémoire. Les entrepôts frigorifiques du port de Québec ne sont pas aménagés actuellement pour recevoir le fromage avant qu'il soit mis à bord des bateaux, pour le conserver. On a pas ce qu'il faut pour conserver le fromage en bonne condition durant la période où il doit être entreposé en attendant que le navire le prenne.

Q. Parlez-vous d'entrepôts frigorifiques?

R. Oui, monsieur. Si c'était possible, si un organisme local avait un mot à dire dans l'organisation il serait facile de remédier à une chose comme celle-là et faire venir le fromage, par exemple, de la région du lac Saint-Jean.

Le Président: Est-ce qu'il n'y a pas dans ce port-là un bureau de la Commission, des supérieurs, des officiers, là?

R. Il y a des officiers qui sont soumis d'une façon qui ne semble rigide à des directives qui viennent d'Ottawa.

Q. Ils sont à Québec en permanence?

R. Il y a un gérant du port, comme tous les ports ont un gérant.

Q. Et lui, il a des employés, des subordonnés?

R. Oui, monsieur.

Q. Est-ce que vous avez fait ces représentations à ce monsieur-là et à propos de ces choses que vous rapportez ici?

R. Oui, monsieur.

Q. Il doit faire certainement ce qu'il peut. Il peut intervenir auprès de son bureau central?

R. Pour moi, je ne suis pas en mesure de déterminer jusqu'à quel point ses pouvoirs lui permettent d'agir.

Q. Vous avez dit tout à l'heure que l'on doit procéder à certaines...

M. Desmarais: Démolition de bâtisses, de bâtiments, là?

R. Je ne crois pas que ce soit le gérant des ports de Québec qui ait décidé cela.

Le Président: Tout de même, il est là?

R. Oui, monsieur.

Q. Vous avez la possibilité au moins d'avoir une entrevue?

M. Desmarais: Est-ce que vous prétendez que le gérant, là, s'occupe tout simplement de l'administration du port et qu'il ne prend aucune initiative pour amener le commerce au port?

M. O'Donnell: C'est un peu fort.

R. Aucune initiative? Là, écoutez, je ne peux pas dire qu'il ne prend pas aucune initiative.

M. Desmarais: Mais, très peu?

R. Oui, très peu et insuffisamment. Nous avons absolument l'impression que le gérant du port est un fonctionnaire paralysé.

Q. Vous ne voulez pas dire, physiquement?

R. Non, mais par des cadres trop rigides.

Q. Est-ce qu'il y a d'autres questions que vous voulez soulever au sujet du témoignage de M. Power?

R.. Oui, la question du taux sur le Transcontinental. J'aurais à ajouter sur le taux du Transcontinental que le taux qui se monte à \$23.96 le 100 livres, le boisseau, transposé en boisseau cela fait \$14.04 le 100 livres. Actuellement, cela coûte 12 1/2¢ les 100 livres pour faire venir du blé de la tête des Grands Lacs jusqu'à Québec plus 1/2¢ pour le transbordement s'il y a lieu, si le blé est transporté du bateau même au transatlantique qui va le porter. C'est pour arriver à la conclusion que malgré...

Le Président: Quel est le tarif pour Montréal?

R. Par bateau?

Q. Depuis les Grands Lacs jusqu'à Montréal, pour charger le bateau à Montréal?

R. C'est le même taux par bateau.

Q. Alors, qu'est-ce que vous proposez?

R. Voici, le 14.4¢ par boisseau aujourd'hui représente plus que 12 1/2¢ par boisseau par bateau.

Q. Est-ce par boisseau ou par 100 livres?

R. Par boisseau 14.4¢; par 100 livres, 24¢.

Q. C'est le tarif qui existe à Montréal et à Québec bien que vous, vous soyez plus éloigné du point ou de la région de l'expédition. Alors, quels sont vos griefs, qu'est-ce que vous avez à dire? Qu'est-ce que vous avez à proposer?

R. Voici, la situation de Québec, il faut la regarder dans son ensemble. C'est difficile, il y a plusieurs facteurs qui font, chacun d'eux, des changements. Par exemple, dans l'organisation du conseil des ports nationaux, et peut-être aussi dans l'organisation des chemins de fer, il serait peut-être possible, et je suis convaincu qu'il le serait, de garder au moins la part de marchandises qui devrait normalement descendre au port de Québec plutôt que d'aller à Montréal ou ailleurs.

On ne se plaint pas contre Montréal dans ce cas-là, Le centre s'appelle Montréal et là c'est une question de géographie, on ne peut rien y faire. Ce n'est pas là le fait.

Q. Vous n'avez pas d'agence de publicité?

R. C'est un des facteurs.

Q. Et, à Montréal, est-ce qu'il y a des avantages. Le port de Montréal est sujet à la même juridiction que le port de Québec?

R. Oui, monsieur. Seulement, la production industrielle de Montréal est tellement considérable que c'est avantageux pour les océaniques d'aller à ce port-là.

M. Desmarais: Il y a une question que M. Smith a posé à M. Power à laquelle il vous a référé et c'est au sujet du volume de marchandise qui est transporté de Québec à Lévis pour prendre avantage du tarif Duncan?

R. Moi-même, je n'ai pas de chiffres là-dessus. Je n'ai rien en chiffres.

Q. Est-ce que vous pourriez transmettre des chiffres à la Commission à ce sujet?

R. Oui, monsieur. Maintenant, je m'engage à faire ce que je peux faire pour transmettre ces chiffres-là.

Il arrive, lorsque le transport de Québec à Lévis se fait par camion que c'est assez difficile d'établir des chiffres. Il n'y a aucune statistique officielle émanant des compagnies de camionnage. Si je suis capable d'obtenir des chiffres, ce sera par une compagnie en particulier qui s'appelle la Lévis Tramways.

Le Président: Est-ce que le service de camionnage est contrôlé par la province de Québec?

R. Oui, monsieur.

La séance est suspendue à 1 heure p.m.

Il est à remarquer que les données

sur les dépenses de l'Etat sont

très faibles et qu'elles ne

représentent qu'une faible partie

des dépenses totales de l'Etat.

Les dépenses de l'Etat sont

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des dépenses totales de l'Etat.

Les dépenses de l'Etat sont

le 11 novembre 1949

séance de l'après-midi.

YVES POISSON

rappelé.

Advenant 2 heures et 45 p.m.

M. Desmarais: M. Poisson, je comprends que vous avez quelque chose à ajouter au sujet du renseignement qui vous a été demandé pour le transport de la marchandise de Québec à Lévis?

R. Oui, monsieur. Voici, des statistiques actuelle, il n'y a pas moyen de s'en procurer sur le camionnage, et pour deux raisons. En ce qui concerne...

Le Président: Il n'y a pas moyen de vous en procurer?

R. Non, pas de statistique sur cela.

Q. Des quoi?

R. Des statistiques sur la marchandise transportée de Québec à Lévis par camion, parce que pour le système de camionnage en ce qui concerne les compagnies et les organisations, il n'y a pas de statistiques officielles; deuxièmement, dans bien des cas, des maisons vont se servir de leurs propres camions pour transporter la marchandise à Lévis.

La seule source sûre pourrait provenir du chemin de fer lui-même qui est en mesure de dire quelle quantité de marchandise est partie de Lévis en provenance de Québec pour être expédiée vers le bas du fleuve.

Je me demande, après avoir réfléchi sur ce point-là, si c'est utile vraiment d'essayer d'obtenir un chiffre qui ne correspondrait pas du tout à la réalité.

Q. C'est vous qui avez posé la question.

M. Desmarais: C'est M. Smith. Nous pourrions expliquer la question à M. Smith et voir ce qu'il va en dire.

... ..

21. 11.

1. How many of the following are true?

The Chairman: Mr. Smith, you wanted to know the volume of traffic of goods there was between Quebec and Lévis. The witness tells us it is impossible to find that out. There is no way of getting at that. Do you wish to go any further?

Mr. Smith: No.

M. Poisson: Il ne me reste seulement que la question de l'exploit soulevée dans le témoignage de M. Power. La ville de Québec dans ses revendications vis à vis les chemins de fer, en particulier le National Canadien, a parlé d'exploit pour la raison qu'elle avait un contrat avec le Transcontinental en vertu duquel l'usine établie à Québec fournissait du travail.

Je ne pense pas que l'on puisse prendre pour acquis qu'en principe le chemin de fer existe pour fournir de l'emploi dans la ville, ou autre chose.

C'est la seule mise au point que je voulais faire.

M. Desmarais: Quant à votre mémoire, je ne crois pas qu'il soit nécessaire de le lire au complet. Le sténographe l'entrera tel qu'il est, comme s'il avait été lu.

R. Oui, monsieur.

La Chambre de Commerce de Québec -- mémoire additionnel à la Commission Royale d'Enquête sur le Transport.

Introduction

A cause des circonstances que l'Honorable M. C.G. Power, procureur de la Cité de Québec et de la Chambre de Commerce de Québec, a expliquées à l'Honorable Juge W.F.A. Tirgeon, président de la Commission Royale d'Enquête sur le Transport, il nous a été impossible d'étudier de façon satisfaisante certains problèmes du transport affectant considérablement la Cité et le District de Québec. D'autre part, certaines parties du mémoire principal présenté le 8 novembre auraient gagné à une plus grande élaboration.

Problèmes à approfondir.

Parmi les points qui auraient gagné à être plus développés, nous tenons à signaler, en particulier, les suivants:

1. Les relations entre la compagnie du Pacifique Canadien avec la Cité de Québec, auxquelles il a été fait allusion dans l'exposé de la question du terminus qui devait être maintenu à Québec en vertu d'un contrat sanctionné par la Législature de Québec en 1883 (Voir page 33 du mémoire principal.), ainsi que du service fourni à Québec par les Quebec Central Railways. (Québec et Lévis à Sherbrooke, via Thetford Mines).

2. Etude plus complète, descendant, si possible, jusqu'à des cas concrets, des effets sur le port de Québec de la centralisation de l'administration des ports nationaux;

3. La lenteur du service de transport de la marchandise, en particulier par des Chemins de Fer Nationaux et, plus précisément, à la jonction de Charny, à quelques milles à l'ouest de Québec, sur la rive sud du fleuve Saint-Laurent.

4. Etude plus détaillée du service fourni à Québec par différentes voies des Chemins de Fer Nationaux, en particulier, celle de Québec à Richmond.

Problèmes non étudiés

Pour donner à la Commission Royale d'Enquête l'occasion de se faire une vue d'ensemble des problèmes du transport à Québec et dans le district, il aurait été utile, sinon nécessaire, d'abord, en plus de celles qui ont été soulevées, les questions suivantes:

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1. Effets sur le port de Québec de la politique actuelle et des taux des compagnies de transport océanique ayant leur port d'attache à Québec, Montréal ou aux villes intermédiaires;
2. Effets sur le port de Québec de la politique actuelle et des taux des compagnies de transport maritime intérieur, de la tête des Grands Lacs au Golfe Saint-Laurent;
3. Etude des problèmes actuels de la navigation cotière et de leurs conséquences sur l'achalandage du port de Québec;
4. Etude comparative des taux afin d'établir la zone de concurrence de Québec et de la région et de vérifier si cette zone de concurrence correspond vraiment à ce qu'on est convenu d'appeler la région économique de Québec;
5. Etude des effets actuels des taux imposés sur la marchandise destinée à l'exportation par les ports du Saint-Laurent et de l'Océan Atlantique;
6. Etude du problème du transport aérien de Québec, des correspondances entre les avions des C.P. Airlines avec les avions des autres compagnies aériennes, en particulier les T.C.A., à Dorval, et autres, ainsi que de la qualité du service actuellement fourni par les C.P. Airlines;
7. Etude du problème du chemin de fer reliant Matane à Mont-Joli et de ses effets sur l'économie de Québec et du District de Québec;
8. Etude similaire en ce qui concerne le chemin de fer de la Péninsule de Gaspé, appartenant aujourd'hui aux Chemins de Fer Nationaux;

1. L'ensemble des données relatives à la situation économique et sociale du pays, ainsi qu'à l'évolution de la production et de la consommation, doit être étudié dans son ensemble et dans ses divers aspects. Les données relatives à la production et à la consommation doivent être étudiées séparément, mais en tenant compte de leur interdépendance. Les données relatives à la situation économique et sociale doivent être étudiées séparément, mais en tenant compte de leur interdépendance.

2. Les données relatives à la production et à la consommation doivent être étudiées séparément, mais en tenant compte de leur interdépendance. Les données relatives à la situation économique et sociale doivent être étudiées séparément, mais en tenant compte de leur interdépendance.

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4. Les données relatives à la production et à la consommation doivent être étudiées séparément, mais en tenant compte de leur interdépendance. Les données relatives à la situation économique et sociale doivent être étudiées séparément, mais en tenant compte de leur interdépendance.

5. Les données relatives à la production et à la consommation doivent être étudiées séparément, mais en tenant compte de leur interdépendance. Les données relatives à la situation économique et sociale doivent être étudiées séparément, mais en tenant compte de leur interdépendance.

6. Les données relatives à la production et à la consommation doivent être étudiées séparément, mais en tenant compte de leur interdépendance. Les données relatives à la situation économique et sociale doivent être étudiées séparément, mais en tenant compte de leur interdépendance.

7. Les données relatives à la production et à la consommation doivent être étudiées séparément, mais en tenant compte de leur interdépendance. Les données relatives à la situation économique et sociale doivent être étudiées séparément, mais en tenant compte de leur interdépendance.

8. Les données relatives à la production et à la consommation doivent être étudiées séparément, mais en tenant compte de leur interdépendance. Les données relatives à la situation économique et sociale doivent être étudiées séparément, mais en tenant compte de leur interdépendance.

9. Les données relatives à la production et à la consommation doivent être étudiées séparément, mais en tenant compte de leur interdépendance. Les données relatives à la situation économique et sociale doivent être étudiées séparément, mais en tenant compte de leur interdépendance.

10. Les données relatives à la production et à la consommation doivent être étudiées séparément, mais en tenant compte de leur interdépendance. Les données relatives à la situation économique et sociale doivent être étudiées séparément, mais en tenant compte de leur interdépendance.

9. Etude des conditions dans lesquelles les compagnies de transport par camion exercent actuellement leur activité et des effets de ce nouveau genre de transport sur l'économie de Québec et du District de Québec;

10. Etude du même problème relativement au transport des passagers par autobus.

La Chambre de Commerce de Québec soumet à la Commission Royale d'Enquête sur le Transport qu'il lui serait fort utile de recueillir des données précises sur tous ces problèmes ou tout autre problème connexe. Elle offre, de plus, à la Commission, son concours dans toute la mesure de ses moyens actuels.

La Chambre de Commerce de Québec présente de plus, en annexe au mémoire principal, des tableaux de taux qui permettront à la Commission d'établir certaines comparaisons de nature à l'éclairer davantage sur certains points soulevés dans le dit mémoire.

Québec, le 9 novembre 1949

La Chambre de Commerce de
Québec.

Q. Vous avez annexé, à ce mémoire, des tableaux. Voulez-vous, sommairement, indiquer chacun de ces tableaux par une lettre et nous dire ce qu'il représente, et ce que vous voulez prouver avec ces tableaux?

R. Je puis faire cela. Il y aurait certainement des éclaircissements à faire par après.

Le tableau 118-A, intitulé: Quelques taux de 3^e et 4^e classes, wagons complets, par 100 livres, devant servir à établir les limites de la zone de concurrence de Québec avec Montréal, Toronto, Halifax, Saint-Jean, N.B., et Lévis, se réfère dans le mémoire au paragraphe 4 de la page 2, --je parle du mémoire 118.

Le tableau 118-B, qui donne le prix courant pour 100 livres de pommes de terre pour chacun des points de destination indiqué tend à établir la façon dont le taux maritime joue par rapport à Québec. Il se réfère particulièrement au sous paragraphe A.

Le sous paragraphe B tend à démontrer que même si Québec était inclus dans la zone de préférence, les points situés en dehors de cette zone et des destinations correspondantes à celles indiquées au sous paragraphe A n'entreraient pas en concurrence avec la préférence maritime.

Le paragraphe 2 s'applique à faire des comparaisons, pures et simples, entre le taux qui existe sur la même denrée entre Québec et les autres villes mentionnées.

Q. Je comprends que vous voulez rayer les mots Isle-Verte, Rivière-Blanche, Grand Falls et Charlottetown?

R. Dans le sous paragraphe B, parce que la destination là, l'exemple donné là, ne devait comporter que la destination en nous fondant sur le tarif régulier au mille.

Dans le bas du sous paragraphe B, il y a l'exemple de Chatham, Ontario et de Ingersoll, Ontario. Par honnêteté, le tarif de région à région, que l'on appelle en anglais "group to group", pouvait diminuer le prix de ces mêmes marchandises.

La pièce 118-C est un tableau aussi fondé sur le prix des pommes de terre après les deux augmentations de 21 et de 8 p. 1000

Q. Et cela tend à démontrer quoi?

R. Les deux lignes principales, évidemment, sont celles qui concernent Québec et Lévis en rapport, toujours, avec le taux maritime.

Le tableau 118-D donne encore une comparaison entre Québec et Lévis sur les marchandises de troisième et de quatrième classes. C'était inutile d'inclure les dix classes.

Ce sont des exemples qui l'on donne et la façon, encore, dont le tarif Duncan joue.

La troisième colonne, qui indique Montréal, démontre que de Montréal, par exemple, au point extrême qui est Halifax, la différence dans le taux de troisième classe n'est que 6¢ le 100 livres.

Le but de cette colonne-là était de faire ressortir le fait que Québec, à cause de la nécessité dans laquelle elle se trouve d'acheter des produits manufacturiers de Montréal ou de Toronto ou d'autres parties d'Ontario, se trouvait dans l'impossibilité de soutenir une concurrence en ce qui concerne le commerce de gros, parce que Québec est alors obligé, s'il entrepose des marchandises, ou plutôt si les marchands de Québec entreposent des marchandises, et s'ils doivent acheter au prix d'expédition de Québec vers les points indiqués, ils doivent payer le prix qui déjà a été payé pour faire venir la marchandise de Montréal ou des autres points à l'Ouest.

Le tableau 118-E est simplement un autre exemple de la façon dont le tarif Duncan nous atteint.

Q. Le tableau 118-E intitulé: Taux comparatifs, wagons complets, par 100 livres, sur les grains et produits du grain, liste CG 180-2, en vigueur le 8 novembre 1949, de Québec, Lévis et Montréal aux points de destination indiqués?

R. Il s'agit de la liste CG 180-2 des chemins de fer. L'exemple a été pris sur les grains cette fois-là.

Le Président: Quelles sont vos observations générales sur ce tableau-là?

R. Si vous me le permettez, Votre Seigneurie, j'arriverai à cela en faisant d'autres brefs commentaires sur l'ensemble du mémoire, Cela me permettra d'arriver à une conclusion d'ensemble et plus complète.

Le tableau 118-F.....

M. O'Donnell: Celui des taux comparatifs?

R. Celui des statistiques sur l'expédition du blé, de l'orge et de l'avoine, pour fins d'expédition.

Au mémoire principal, à la page 25, nous citons l'article 42 de la Loi du Transcontinental dans lequel il est dit que ce chemin de fer a été construit pour éviter que la marchandise en provenance de l'Ouest, et plus particulièrement le grain peut-être, ne soit expédiée par les ports de l'Atlantique des Etats-Unis.

Le Président: Comment dites-vous cela? Pour empêcher les produits de l'Ouest d'être transportés par les ports, des Etats-Unis, sur l'Atlantique?

R. C'est une des raisons pour lesquelles le Transcontinental a été construit.

Q. Pour garder ce trafic pour les ports canadiens?

R. Oui, monsieur. Alors, on constate, par les chiffres donnés par ce tableau-là, qu'il y a encore une forte proportion des trois espèces de grains mentionnés qui sont expédiés par les ports de l'Atlantique des Etats-Unis.

Il reste à vérifier, en rapport avec le tableau, si tout le grain, dont il est question dans la première colonne, après les années mentionnées, a vraiment été expédié par les ports de l'Atlantique des Etats-Unis. A cause du fait que les expéditeurs expédient le grain par là, qu'il passe vraiment par les Etats-Unis, c'est une chose que nous aurions voulu établir, mais il n'y a pas moyen de l'établir.

Q. Est-ce que vous savez qu'il y a un volume considérable de blé américain qui passe par le port de Montréal?

R. Non, je ne sais pas cela.

Q. Continuez.

R. C'est pour la pièce 118-F.

Q. Dans certaines années, il y a plus de blé américain qui a passé par le port de Montréal qu'il en a passé

par lesports de l'Atlantique des Etats-Unis. Je ne parle pas des années récentes. Continuez.

R. Je réfère à l'exhibit principal, le numéro 118. Il y a des points que j'ai déjà touchés ce matin et qui ne se rapportaient pas à cela. Il y a tout de même quelques exemples que je voudrais ajouter avec références précises à certains paragraphes.

Par exemple, au paragraphe 3 de la page 1, je voudrais citer en exemple le fait que l'expédition de Québec à Chicoutimi a pris jusqu'à 10 jours et 12 jours par le National Canadien; que l'expédition de Québec à Terre-Neuve par Sydney prend généralement 6 semaines, alors que par les bateaux de la Clark Steamship cela prend pas plus que 5 ou 6 jours, 10 jours au maximum,--sauf l'inconvénient que les bateaux de la Clark Steamship, qui sont dans la même situation que les autres transatlantiques ou les bateaux des Grands Lacs préfèrent prendre des cargaisons complètes à Montréal pour s'éviter les frais d'arrêts à Québec, et dans certains cas nos marchands ont été obligés d'expédier leur marchandise à Montréal pour qu'elle soit placée à bord des bateaux de la Clark Steamship ou bien de les expédier par train avec tout le délai que cela constitue.

M. Desmarais: Ce délai est un désavantage pour vos marchands étant donné que leurs clients achètent dans des endroits où ils peuvent obtenir leur marchandise plus rapidement.

R. Oui. En ce qui concerne le paragraphe 4, sur la même page,--j'ai fait allusion au service, en particulier, à la voie de Québec-Richmond, et je voudrais ajouter là-dessus, en ce qui concerne le transport des passagers que les wagons fournis sont tellement vieux et on m'a dit, et c'est un certain conducteur du chemin de fer qui me l'a dit, qu'ils avaient été construits en 1880. Je n'ai pas eu de peine à le croire parce que certains de ces wagons sont encore éclairés au gaz.

Q. Leur principale valeur est dans le fait qu'ils sont de l'antiquité?

R. Exactement. En 1929, et durant quelques années précédant 1929, il y avait un rapide qui donnait un service beaucoup plus satisfaisant sur cette voie-là. Mais, avec le service actuel, il est impossible que le chemin de fer songe jamais à soutenir la concurrence avec les compagnies de transport par autobus.

Maintenant, en ce qui concerne Québec, ce point-là nous intéresse parce qu'il y a des gens qui ne demeurent pas plus loin qu'à 100 milles de Québec et à la même distance de Montréal qu'ils seraient intéressés à acheter ou faire leurs achats chez nous, mais en plus du mauvais service donné sur cette voie-là nous sommes organisés de telle façon que des voyageurs, par exemple, qui partent de Plessisville ou de Victoriaville, qui est plus éloigné de Montréal que de Québec, peuvent aller passer plusieurs heures à Montréal durant la même journée et pour venir, le soir, à Québec, ils ne peuvent y passer pas plus que deux heures et demie ou trois heures et en certains temps jusqu'à trois heures et demie et quatre heures.

Sur les paragraphes 1 et 2 de la page 2, j'ai dit à peu près tout ce que j'avais à dire ce matin.

Sur le paragraphe 3 il est question de la navigation cotière. La navigation cotière est celle qui dessert la côte nord du fleuve Saint-Laurent et dont le port d'attaches naturel est Québec. A partir de la Malbaie, il n'y a pas de chemin de fer pour desservir cette région et pour des raisons dont j'ignore les détails il semble que cette navigation cotière subit actuellement une dépression et il serait important pour nous qu'une étude soit faite. En tout cas, je la signale à l'attention de la Commission.

Au paragraphe 4, nous nous plaignons, et comme je l'imagine beaucoup d'autres points du pays, que la politique des chemins de fer ne tient pas compte des intérêts des régions économiques.

J'ai cité, ce matin, en ce qui concerne le service, l'exemple de la marchandise d'un marchand de Québec qui est allé brûler à la gare Bonaventure de Montréal alors qu'elle était destinée à Victoriaville.

Je ne connais pas les conclusions auxquelles la Commission en arrivera, mais en autant que nous sommes concernés, nous aimerions que, autant que possible, sans venir à l'encontre des intérêts de la nation, les chemins de fer tiennent compte des besoins locaux de certaines régions économiques en ce qui concerne le service et, même, si possible en ce qui concerne les taux. Et, ce principe-là pourrait s'appliquer non seulement chez nous mais dans plusieurs régions économiques du Canada.

Au paragraphe 6 de la page 2, il est question du transport aérien de Québec. C'est un problème que je n'ai pas eu l'occasion d'étudier longuement et sur lequel je voudrais mentionner au moins quelques points.

Actuellement, il est impossible, par exemple, pour un homme qui demeure à Québec de tirer profit du service des Canadian Pacific Airlines pour venir à Ottawa en particulier, --je cite ce cas-là à titre d'exemple seulement. Je pense qu'il pourrait s'appliquer à d'autres cas aussi, --à cause du fait que les avions du Canadian Pacific Airlines arrivent quelques minutes trop tard à Dorval pour faire la correspondance avec le TransCanada Airlines.

Q. Maintenant, les numéros 7 et 8 se rapportent à deux chemins de fer qui desservent indirectement Québec?

R. Oui, et qui ont quand même pour nous une certaine importance économique.

Q. Et vous les mentionnez là pour quelles raisons?

R. Parce qu'en ce qui concerne le chemin de fer Matane-Montjoli on a constaté que le service est beaucoup trop lent et les taux trop élevés. Et, nous nous demandons s'il ne serait pas avantageux que ce chemin de fer là soit poursuivi jusqu'à Gaspé afin de rejoindre l'autre tronçon du National Canadien qui part de Matapédia et qui fait le tour de la péninsule de la Gaspésie en sens inverse.

Un autre facteur, très important, en ce qui concerne à la fois le chemin de fer de Matane et celui qui fait le tour de la péninsule de la Gaspésie, c'est l'industrie du tourisme. Le chemin de fer actuel de Matane-Gaspé est dans un état tel que sa moyenne de vitesse est d'environ 20 milles à l'heure et que, pour ma part, j'ai peur de voyager dessus. Et j'ai constaté, pour y être allé en automobile dans cette région-là, qu'il y a des endroits où les deux rails ne sont pas assez et suffisamment de niveau pour que le train puisse fonctionner à une vitesse normale. Un bon jour, il peut y arriver que des accidents fort graves se produisent. A certains endroits le train passe sur la falaise le long de la mer et s'il y avait déraillement causé par un manque d'entretien il pourrait y avoir des conséquences graves.

En ce qui concerne le transport par camion, au paragraphe 9 de la même page 2, nous pouvons affirmer, ici; que dans l'ensemble les hommes d'affaires de Québec tiennent à profiter le plus possible des avantages de ce genre de transport parce qu'ils obtiennent un bien meilleur service que celui fourni par les chemins de fer. Et je peux citer le cas d'une maison en particulier où il se fabrique de la brique de construction et qui a expédié de dix à douze mille wagons par année, --en 1948, ou durant les années antérieures.

En 1949, cette maison N8en aura pas expédier plus que huit mille wagons et son programme est d'en expédier cinq mille au moins si possible l'année prochaine à cause du fait qu'elle n'est pas satisfaite du service et, en plus, elle bénéficie de taux avantageux, surtout depuis la hausse, par le transport par camion.

Je ne suis pas autorisé à faire une déclaration de principe au nom de la Chambre de Commerce en ce qui concerne la politique centralisatrice des régies du transport pour les camions, mais je crois que je représente l'opinion des hommes d'affaires en disant que nous sommes opposés à une telle centralisation et pour plusieurs raisons dont une des principales serait que si l'union des cheminots entrant dans le commerce du camionnage les taux de transport pourraient peut-être hausser encore une fois ou deux fois ce qu'ils sont actuellement parce que chacun sait que dans ces unions puissantes on partage le travail au point que dans certains cas il faut un homme pour ouvrir une porte et un autre pour la fermer.

Je n'ai rien à ajouter sur le paragraphe 10 de la page 3.

Q. Est-ce que ceci complète vos observations sur votre mémoire?

R. J'aurais un mot à ajouter sur le but d'ensemble de ce mémoire-là, une conclusion générale. Les recommandations sur les points qui sont apportés dans le mémoire additionnel complèteraient à peu près l'étude des questions du problème du transport à Québec. Il nous a été impossible, dans le peu de temps dont nous disposions, d'étudier à fond ce problème-là et si c'est dans l'intention de la Commission de faire faire des études sur le problème du transport dans la région, il y aurait certainement lieu de se servir des cas qui sont ici.

Q. Est-ce que quelqu'un a des questions à lui poser? Alors, merci, M. Poisson.

Le Président: Nous vous remercions.

(page 8330 follows)

Translation of evidence
which appeared in
Volume 44 of November 14, 1949

November 11, 1949.

MORNING SESSION

YVES POISSON, called.

MR. DESMARAIS: There is a supplementary of the brief by the Chamber of Commerce to be added to this, to be presented by the Secretary of the Chamber.

Q. Your name is Yves Poisson, I believe?

A. Yes, sir.

Q. You are secretary of the Quebec Chamber of Commerce?

A. I am one of the two secretaries.

Q. For how long have you been acting as such?

A. For three years and a half.

Q. What is the membership of the Chamber of Commerce?

A. Approximately 150, all business men.

Q. I understand that the brief submitted by Mr. Power applied both to Quebec City and the Quebec City Chamber of Commerce?

A. Yes, sir.

Q. You wish this morning to submit an additional brief to the main one?

A. That is correct.

MR. DESMARAIS: Now, I believe that it would be advisable, Mr. Chairman, to produce this additional brief, as well as some pages to which Mr. Poisson will refer, as Exhibit 118. This brief contains only two pages and a half and Mr. Poisson wishes to read it.

THE CHAIRMAN: What are those sheets attached to the brief?

A. They are tables. Mr. Desmarais, in hearing evidence from Mr. Power, I took some notes which might be useful. Should I go on with this before I proceed with something else?

MR. DESMARAIS: Speak louder.

A. I said that during Mr. Power's evidence I took notes which might prove useful. Should I add these before submitting the other brief or make my comments immediately?

THE CHAIRMAN: As you wish.

A. Very well.

Q. Or rather you submit your comments immediately.

A. There is a matter arising with regard to the disadvantages affecting Quebec City from the shipping viewpoint and also from the natural and artificial viewpoints.

As an artificial disadvantage, I would like to draw attention to the policy of the ocean shipping companies, or even the river shipping companies, from the head of the Great Lakes or rivers to the Lower St. Lawrence where vessels from the Great Lakes proceed sometimes.

Ocean-going vessels arrive in Canada with cargoes intended mostly to Montreal, or west of Montreal, or Montreal for distribution in the immediate district and a smaller percentage is intended to Quebec harbour and the Quebec district. Due to the fact that for stopping and unloading a small cargo at Quebec, charges are as high as in the Montreal harbour for unloading an ordinary cargo, shipping companies have decided to unload at Montreal their whole Quebec cargoes and to pay themselves for railway transportation of the goods from Montreal to Quebec. To avoid the payment of additional charges for railway transportation from

Montreal to Quebec, it is apparent that they are endeavouring to attract goods to the Montreal harbour for not being forced to stop at Quebec when upbound or downbound, or vice versa.

Q. What are the companies involved?

A. To my knowledge, this is the general policy of all the companies.

Q. Foreign companies as well as Canadian companies?

A. Yes, sir. As regards shipping on the Great Lakes, I understand that there is a shortage of vessels since the termination of the war, this preventing ships proceeding down to Quebec owing to lack of time. This has sometimes been the case. On the other hand, and the same problem arises inversely when referring to shipping from the Great Lakes to the St. Lawrence River, companies are sure of placing in their ships full cargoes at Montreal and can then sail up the Great Lakes, thus avoiding the necessity of proceeding down to Quebec as this would not give them a cent more under the prevailing rate from Fort William to Quebec for grain carried, particularly oats and barley, such rate being exactly the same as for Montreal harbour.

Naturally, those companies have automatically the same tendency of attracting to Montreal goods which they are able to carry.

Those are artificial disadvantages. They are evidently the result of the geographic location.

From the railway standpoint, I am not a railway expert, but as far as I can realize from contacts with business men, and occasionally with railwaymen, the fact that the railway has large central stations in Montreal, as also in Toronto and Winnipeg, may

automatically and owing to the force of circumstances act against smaller economic centres.

To substantiate this statement, I can quote a very striking case, that of a Quebec wholesale firm which had shipped an order for goods to Victoriaville, located on the main line from Quebec to Richmond.

MR. DESMARAIS: What is the distance from Quebec?

A. Approximately 70 or 75 miles by rail. Instead of shipping the goods from Quebec to Richmond, through the line serving that section on the south shore, the goods went from Quebec to Montreal and ended up in burning at the Bonaventure Station fire. The claim from the buyer resulted in investigations being made by the shipper to find the goods.

Q. How many miles would the goods have travelled before arriving at destination, namely, Victoriaville?

A. Via Quebec?

Q. No, from Quebec to Victoriaville?

A. From Quebec to Montreal there are approximately 163 miles by rail, and from Montreal to Victoriaville there are a little over 100 miles, 102 or 103 miles, I believe. I wanted to make this further statement as an illustration of the case.

THE CHAIRMAN: What do you propose to remedy the situation? Do you outline some remedial measures in your brief?

A. Yes, sir, and I will develop them along with those in the brief I have here.

Q. Is it only the harbours you are covering?

A. No, industrial development at Quebec is dealt with. Mr. Power already gave one of the reasons why the St. Malo plants have been sought. It is because

1. The first step in the investigation was to determine the identity of the person who had been seen at the scene of the crime.

2. The next step was to determine the location of the crime scene and the time of the crime.

3. The third step was to determine the identity of the person who had been seen at the scene of the crime.

4. The fourth step was to determine the location of the crime scene and the time of the crime.

5. The fifth step was to determine the identity of the person who had been seen at the scene of the crime.

6. The sixth step was to determine the location of the crime scene and the time of the crime.

7. The seventh step was to determine the identity of the person who had been seen at the scene of the crime.

8. The eighth step was to determine the location of the crime scene and the time of the crime.

9. The ninth step was to determine the identity of the person who had been seen at the scene of the crime.

10. The tenth step was to determine the location of the crime scene and the time of the crime.

11. The eleventh step was to determine the identity of the person who had been seen at the scene of the crime.

12. The twelfth step was to determine the location of the crime scene and the time of the crime.

13. The thirteenth step was to determine the identity of the person who had been seen at the scene of the crime.

they were offered at a very favourable price. I am aware of the fact -- I have no figures to quote -- that even if the companies which took possession of those plants wished only to engage in speculation on the buildings, the plants were worth buying just for that. At the time of the sale of the St. Malo plants, there were in Canada a shortage of building materials and also a shortage of buildings which might be used for industrial establishments. There is no doubt that this factor largely assisted in offsetting for a period of time, which cannot be determined, the disadvantages felt in shipping and railway transportation in particular, and also in sea shipping, naturally.

Another reason why industrialists wanted to commence business at Quebec is that Quebec is known as a city where labour is peaceful and stable and where lower wages are requested than in other sections of the country.

Quebec is a centre attracting people from the whole Lower St. Lawrence, particularly the Lake St. John and Saguenay districts. When I refer to the Lower St. Lawrence, I mean both shores.

There is a population leaving rural districts for all sorts of economic factors, which it is not necessary to outline here, and arriving at Quebec. Consequently, there were consistently from 8,000 to 10,000 unemployed workers even during the most prosperous periods and even during the war when, however, a decrease was noted. This is instrumental in reducing the cost of labour. Naturally, I believe that industry is interested in places where labour is cheaper.

The third consideration I would like to mention, and what Mr. Power already stated, is the disadvantage

of being at Quebec, as elsewhere besides, under the jurisdiction of the National Harbours Board. The Sorel harbour is a harbour administered by local individuals who are masters of their decisions and can offer any rates without having to write to Ottawa or telegraph for trifles.

At Three Rivers harbour, there is a real discrimination towards Quebec. It is another harbour under the National Harbours Board. The construction of a grain elevator was allowed on the National Harbours Board property when this grain elevator is actually managed by a private company entitled to ask the rates desired for receiving or shipping grain or for storing it. This is one of the numerous cases I could give with respect to the disadvantages in national harbours.

It is fairly difficult before conducting a special survey to decide on how to make a concrete proposal.

However, it seems to us, as we are near the harbours and have had the opportunity of visiting them on many occasions, that the main factor capable of influencing the policy of the national harbours would be to balance the budget of every individual harbour. If revenues are not sufficient to maintain the harbour facilities, it is just too bad and operations are to be discontinued. This applies to a number of sheds which are so damaged as a result of time and lack of repairs that apparently it would not be profitable to repair them. I even heard that they are shortly to be completely demolished. This is an example of how the organization of the national harbours can serve us.

If there were a local body, no matter the publicity made to the Quebec harbour and having regard to the administration costs involved to meet the

requirements of the patrons in the vicinity of Quebec and the Quebec economic district, it surely would be possible to obtain a heavier traffic in the Quebec harbour.

I will give an example which I studied myself recently, namely, cheese shipping, mentioned by Mr. Power in his brief. At present, the Quebec harbour cold storage warehouses are not equipped for accommodating cheese for preservation before it is placed in ships. Facilities are not provided for keeping cheese in good condition for the period during which warehousing is required pending ship loading.

Q. Are you referring to cold storage warehouses?

A. Yes, sir. Where possible, if a local body had something to say in the organization, it would be an easy matter to remedy such a situation and obtain cheese, for instance, from the Lake St. John district.

THE CHAIRMAN: Are there no officers in the Board office at that harbour?

A. There are officers who, in my opinion, are strictly subject to directions from Ottawa.

Q. Are they permanently located at Quebec?

A. There is a port manager, as in all other ports.

Q. And he has employees under him?

A. Yes, sir.

Q. Did you make representations to this gentleman regarding the points you are submitting here?

A. Yes, sir.

Q. He is certainly doing what he can. He can make representations to his head office?

A. As far as I am concerned, I am not in a position to determine to what extent his powers enable him to act.

Q. You said a moment ago that there is to be some --

MR. DESMARAIS: Buildings to be demolished there?

A. I do not believe that the Quebec port manager decided that.

THE CHAIRMAN: Nevertheless, he is there?

A. Yes, sir.

Q. You have at least the possibility of having an interview?

MR. DESMARAIS: Are you contending that the manager there is simply responsible for the administration of the port and is not taking any initiative for bringing business to the port?

MR. O'DONNELL: It is a little too much.

A. No initiative? Now, listen, I cannot say that he is not taking any initiative.

MR. DESMARAIS: But very little?

A. Yes, very little and insufficiently. We are absolutely under the impression that the port manager is a paralyzed officer.

Q. You do not mean physically?

A. No, but by too rigid limits.

Q. Are there other questions you would like to raise regarding Mr. Power's evidence?

A. Yes, the question of rates on the Transcontinental. I would like to state further, as regards the rate over the Transcontinental line of the Canadian National, that the rate of 24 cents per cwt. makes 14.40 per bushel when converted. At present, the cost is 12-1/2¢ per bushel for bringing wheat from the head of the Great Lakes to Quebec by water, plus 1/2¢ for transshipping, if necessary, when wheat is carried from the boat itself to the

ocean-going vessel which is to carry it. This is to arrive at the conclusion that in spite of --

THE CHAIRMAN: What is the rate for Montreal?

A. By boat?

Q. From the Great Lakes to Montreal for loading on board ship in Montreal?

A. It is the same rate by boat.

Q. Then, what do you propose?

A. Now the 14.4¢ per bushel is representing more than 12-1/2¢ per bushel by boat.

Q. Is it by bushel or by cwt.?

A. By bushel 14.4¢; per cwt., 24¢.

Q. It is the rates prevailing in Montreal and Quebec although, in your case, you are farther from the shipping point or region. Then, what are your grievances, what do you have to say? What do you propose?

A. The situation prevailing at Quebec should be considered as a whole. It is difficult, as there are several factors each involving changes. For instance, in the organization of the National Harbours Board, and perhaps also in the organization of the railways, it might be possible, and I am satisfied that it would be, to retain at least the portion of goods which normally would proceed down the Quebec harbour rather than to Montreal or elsewhere.

There is no complaint against Montreal in that case. The centre is called Montreal and the matter is a geographic one. Nothing can be done. This is not the point.

Q. You have no publicity agency?

A. This is one of the factors.

Q. And, at Montreal, are there any advantages?
The Montreal harbour is subject to the same jurisdiction

as the Quebec harbour?

A. Yes, sir. However, industrial production in Montreal is so considerable that it is profitable for ocean-going vessels to proceed to that harbour.

MR. DESMARAIS: Mr. Smith asked Mr. Power a question to which he referred you. This is with regard to the volume of goods carried from Quebec to Levis to take advantage of the Duncan rates?

A. As far as I am concerned I have no figures in this connection. I have nothing in the form of figures.

Q. Could you forward figures to the Commission in this respect?

A. Yes, sir. I agree to forward such figures, if possible.

When transportation from Quebec to Levis is by truck, it sometimes happens that it is fairly difficult to determine the figures. There are no official statistics from the trucking companies. If I am able to obtain figures, it will be from a specific company, called the Levis Tramways.

THE CHAIRMAN: Is the trucking service controlled by the Province of Quebec?

A. Yes, sir.

--The meeting adjourned at 1 p.m. to meet again at 2.45 p.m.

November 11, 1949.

AFTERNOON SESSION

YVES POISSON, recalled

MR. DESMARAIS: Mr. Poisson, I understand that you have something to add with reference to the information you were requested to provide on the transportation of goods from Quebec to Levis?

A. Yes, sir. Present statistics cannot be obtained on trucking, for two reasons. As regards --

THE CHAIRMAN: You cannot secure any?

A. No, no statistics on that.

Q. On what?

A. Statistics on goods carried from Quebec to Levis by truck because official statistics are unavailable on the trucking system as far as companies and organizations are concerned; second, in many instances, firms use their own trucks to carry goods to Levis.

The only reliable source might be the railway itself, which is in a position to state what quantities of goods originating from Quebec left Levis for shipment to the Lower St. Lawrence.

After considering this point, I wonder whether it would be useful to seek figures which would not agree with actual facts.

Q. You are the one who asked the question?

MR. DESMARAIS: It is Mr. Smith. We could explain the matter to Mr. Smith and see what he has to say.

THE CHAIRMAN: Mr. Smith, you wanted to know the volume of traffic of goods there was between Quebec and Levis. The witness tells us it is impossible to find that out. There is no way of getting at that. Do you wish to go any further?

MR. SMITH: No.

THE WITNESS: There remains only the question of employment raised by Mr. Power's testimony. The City of Quebec in its claims against the railways, especially the Canadian National, mentioned employment for the reason that the city had a contract with the Transcontinental under which the shops established in Quebec were creating employment.

I do not think that it can be taken for granted that in principle the railway is existing to give employment in the city, or anything else.

It was the only thing I wanted to point out.

MR. DESMARAIS: In so far as your memorandum is concerned, I do not think it is necessary to read it all. The stenographer will enter it as it stands, as if it had been read.

A. Yes, sir.

La Chambre de Commerce de Quebec (Quebec Chamber of Commerce) -- Additional memorandum for the Royal Commission of Inquiry on Transportation (Commission Royale d'Enquete sur le Transport).

Introduction

Because of the circumstances explained by the Honourable C. G. Power, attorney for the City of Quebec and the Quebec Chamber of Commerce, to the Honourable Justice W. F. A. Turgeon, Chairman of the Royal Commission of Inquiry on Transportation, it was impossible for us to investigate satisfactorily certain problems of transportation affecting to a considerable extent the City and the District of Quebec. On the other hand, some parts of the main memorandum which was submitted on November 8th would have gained by being more elaborate.

Problems to be studied thoroughly.

Amongst the points which would have gained by a closer examination, we want to note especially the following:

1. The relations between the Canadian Pacific Company and the City of Quebec which were referred to in the account on the terminal that was to be maintained at Quebec under a contract sanctioned by the Quebec Legislature in 1883 (see page 33 of the main memorandum), as well as the service provided at Quebec by the Quebec Central Railways (from Quebec and Levis to Sherbrooke, via Thetford Mines).

2. A more complete investigation, going into, if possible, concrete cases, of the effects of the centralization of the national harbours on the Quebec harbour.

3. The slow service given in the transportation of goods, especially by the Canadian National Railways and, to be more precise, at the Charny Junction, a few miles west of Quebec, on the south shore of the St. Lawrence River.

4. A more detailed study of the service provided at Quebec by the different lines of the Canadian National Railways, especially the Quebec-Richmond line.

Uninvestigated problems

In order to enable the Royal Commission of Inquiry on Transportation to have a general view of the transportation problems at Quebec and in the district, it would have been useful, if not necessary, to tackle, in addition to the questions raised, the following:

1. Effects on the Quebec harbour of the present policy and of the rates of the ocean-shipping companies with their home port at Quebec, Montreal or the

intermediate cities;

2. Effects on the Quebec harbour of the present policy and of the rates of the inland shipping companies, from the head of the Great Lakes to the Gulf of St. Lawrence;

3. A study of the present problems of coasting and their results on the business at the Quebec harbour;

4. A comparative study of the rates in order to establish the Quebec and district competition zone and to find out if this zone of competition corresponds truly to what is called the Quebec economic region;

5. A study of the present effects of the rates charged on goods to be exported through the ports of the St. Lawrence and of the Atlantic Ocean;

6. A study of the problem of the air transport at Quebec, of the connections between the C P. Airlines aircraft and the aircraft of other air companies, especially the T.C.A. at Dorval, and others, as well as the quality of the services presently provided by the C.P. Airlines;

7. A study of the problem of the railway between Matane and Mont Joli and its effects on the economy of Quebec and the Quebec District;

8. A similar study of the railroad of the Gaspé Peninsula, which is owned now by the C.N.R.;

9. A study of the conditions under which trucking companies are now operating and the effects of this new type of transportation on the economy of Quebec and the district of Quebec;

10. A study of the same problem in connection with the transportation of passengers by bus.

The Quebec Chamber of Commerce submits to the Royal Commission of Inquiry on Transportation that the

collection of precisions on all these problems or any related problem would be very useful. Moreover, the Chamber offers the Commission its fullest cooperation.

The Chamber of Commerce submits also, as an appendix to the main memorandum, tables of rates which will enable the Commission to make certain comparisons that should by their nature throw more light on some points mentioned in the said memorandum.

Quebec, November 9, 1949. The Quebec Chamber of Commerce.

Q. You have attached tables to this memorandum. Would you kindly mark every table by a letter and tell us briefly what that table represents and what you want to prove with these tables?

A. I can do that. Explanations would surely have to be given afterwards.

Table 118-A, entitled: A Few Rates of 3rd and 4th Classes, by carload lots, per cwt., to establish the limits of the competition zone of Quebec with Montreal, Toronto, Halifax, St. John, N.B., and Levis, refers to section 4 in the memorandum -- I mean memorandum 118.

Table 118-B, which gives the cost price per cwt. of potatoes for each of the points of destination shown, tends to establish how the shipping rates are working with respect to Quebec. It refers especially to subsection A.

Subsection B tends to show that even if Quebec were included in the preferential zone, the points located outside that zone and the destinations corresponding to the destinations mentioned in subsection A would not compete with the marine preference.

Section 2 is bent on making more comparisons between the existing rates on the same goods between

Quebec and the other cities mentioned.

Q. I understand that you want to strike out the words Isle-Verte, Riviere-Blanche, Grand Falls, and Charlottetown?

A. In subsection B, because that destination, the example given there, was to comprise only the destination based on the regular mile rates.

At the bottom of subsection B there is the example of Chatham, Ontario, and Ingersoll, Ontario. Honestly, the group to group rates could decrease the price of these same goods.

Document 118-C is a table based also on the price of potatoes after the two increases of 21% and 8%.

Q. And what does this establish?

A. The two main lines, evidently, are the lines affecting Quebec and Levis, in connection, always, with the marine rates.

Table 118-D gives also a comparison between Quebec and Levis for goods in the 3rd and the 4th classes. It was useless to include the ten classes. These are examples given to show how the Duncan rates are working.

The third column giving Montreal shows that from Montreal, for instance, to the extreme limit, which is Halifax, the difference in the 3rd class rate is only 6¢ per cwt.

The purpose of that column was to stress the fact that Quebec, because she has to purchase manufactured goods from Montreal or Toronto or other parts of Ontario, could not possibly compete in the wholesale trade. Quebec has, if she stores goods or rather if the Quebec merchants store goods, or if they have to buy at the shipping price from Quebec to the points mentioned, they have to pay the price already paid to bring the goods from Montreal and from points west of Montreal.

Table 118-E is merely another example of how the Duncan rates affect us.

Q. Table 118-E, entitled "Comparative rates, carload lots, per cwt., on grain and grain products, List CG 180-2, effective November 8, 1949, from Quebec, Levis and Montreal to the points of destinations shown?

A. This is Railway List CG 180-2. Grain has been taken as an example this time.

THE CHAIRMAN: What are your general observations on that table?

A. With your permission, my lord, I will come to that point by commenting briefly on the memorandum as a whole. This will enable me to reach a more general and more complete conclusion.

Table 118-F --

MR. O'DONNELL: The comparative rates table?

A. The table of statistics on wheat, barley and oats for shipping purposes.

In the main memorandum, on page 25, we quote section 42 of the Transcontinental Act in which it is stated that this railroad was built to prevent goods from the west, and especially grain, perhaps, from being shipped through the U.S. Atlantic ports.

THE CHAIRMAN: What do you say? To prevent western products from being shipped through the U.S. ports on the Atlantic?

A. It is one of the reasons for which the Transcontinental was built.

Q. To keep this traffic for the Canadian ports?

A. Yes, sir. Then, the figures given in that table show that a big proportion of the three kinds of grain mentioned are shipped through the Atlantic ports of the United States.

It remains to establish, in connection with the table, if all the grain given in the first column, after the years mentioned, was really shipped through the U.S. Atlantic ports. Because of the fact that the shippers ship the grain that way, that the grain really passes through the United States, it is something we would have liked to establish, but which it is impossible to establish.

Q. Do you know that a considerable quantity of American wheat is passing through the port of Montreal?

A. No, I don't know that.

Q. Go ahead.

A. This is about document 118-F.

Q. In some years more American wheat passed by the port of Montreal than by the Atlantic ports of the United States. I do not mean recent years. Continue.

A. I refer to the main exhibit, No. 118. There are some points which I already touched upon this morning but which did not relate to this matter. There are, however, a few examples that I would like to add with definite references to certain paragraphs.

For instance, in paragraph 3 of page 1, I would like to cite as an example the fact that shipping from Quebec to Chicoutimi by C.N.R. took as long as 10 and 12 days; that shipping from Quebec to Newfoundland through Sydney generally takes 6 weeks, while it does not take more than 5 to 6 days, 10 days is the maximum, by the Clark Steamship Company -- except the disadvantage that the ships of the Clark Steamship, being in the same position as the other Transatlantic or Great Lakes ships, prefer taking full cargoes at Montreal in order to avoid the expenses arising from a stop at Quebec, and in some cases our merchants were forced to ship their goods to Montreal to have same put on board

the Clark Steamship boats or to ship same by train with all the delay involved.

MR. DESMARAIS: The delay is a disadvantage for your merchants since their customers buy where they can obtain their goods more rapidly?

A. Yes. In so far as paragraph 4 of the same page is concerned, I referred to the service, especially on the Quebec-Richmond line. I would like to add in this respect in connection with the transportation of passengers that the cars used are so old -- I was told, and this by a railroad conductor, that they were built in 1880, which I easily believe because some of these cars are still lighted with gas.

Q. Their main value resides in the fact that they are antiquities?

A. Exactly. In 1929, and during a few years previous to 1929, there was a fast train giving a much more satisfactory service on that line. But, with the present service, it is impossible for the railroad to ever think of competing with the bus companies.

Now, about Quebec. We are interested in this point because there are people living not over a hundred miles from Quebec and at the same distance from Montreal who would be interested in making their purchases in our city. But, in addition to the bad service given on that line we are organized in such a way that passengers, for instance, leaving from Plessisville or Victoriaville, which is farther from Montreal than from Quebec, can spend several hours in Montreal on the same day and come back at night. At Quebec, they can spend only 2-1/2 or 3 hours and at certain times up to 3-1/2 or 4 hours.

About paragraph 1 and paragraph 2 of page 2, I said about everything that I had to say this morning.

Paragraph 3 deals with coasting. This coasting serves the North Shore of the St. Lawrence and its natural home port is Quebec. From La Malbaie, there is no railroad to serve the region and for reasons unknown to me it seems that this coasting is declining at the present time and it would be important that an investigation be made. At any rate, I bring this to the attention of the Commission.

In paragraph 4 we complain, and I imagine that many other places in our country do likewise, that the policy of the railways does not take into account the interests of the economic region.

I quoted this morning, in connection with the service, as an example, the goods of a Quebec merchant that were burnt in the Bonaventure Station in Montreal although they were being shipped to Victoriaville.

I do not know what will be the conclusions reached by the Commission, but as far as we are concerned, we would like, in so far as it is possible without prejudice to the common good of the nation, to see the railways consider the local needs of certain economic regions for the service and even for the rates, if possible. And this principle could be applied not only in our region but in several other economic regions in Canada.

Paragraph 6 on page 2 deals with air transport at Quebec. I did not have the opportunity to study fully this problem but I would like to mention at least a few points.

At the present time, for instance, it is impossible for a man living in Quebec to benefit from the service of the Canadian Pacific Airlines to go to Ottawa -- I mention this case for an illustration only, as the same thing would apply to other cases as well -- because the Canadian Pacific Airlines aircraft arrive at Dorval a few minutes

too late to make the connection with the Trans-Canada Airlines.

Q. Now, Nos. 7 and 8 deal with two railroads serving indirectly the City of Quebec?

A. Yes, they have, however, for us a certain economic importance.

Q. And why do you mention them?

A. Because in so far as the Matane-Mont Joli railroad is concerned we have noted that the service is much too slow and the rates are too high. And we wonder if it would not be a good thing to extend this railroad as far as Gaspé in order to meet the other branch of the C.N.R. starting at Matapédia and extending around the Gaspé Peninsula in the other direction.

Another very important factor, interesting both the Matane and the Gaspé peninsula railways, is the tourist industry. The present Matane-Gaspé railroad is in such a poor condition that its average speed is about 20 miles per hour and, for my part, I am afraid to travel on that railroad. And I have discovered, because I have been in that region by motor car, that at some places the two rails are not sufficiently brought to a level to allow the train to run at a normal speed. Very serious accidents are liable to occur some day. At some places the train passes on the cliff alongside the sea and should a derailment take place on account of a lack of maintenance there could be serious consequences.

In so far as trucking is concerned, paragraph 9 of the same page 2, we can state positively here that the Quebec business men, generally, want to benefit as much as possible from this type of transport because they are given a far better service than the service provided by the railways. And I can mention especially the case of

a firm manufacturing brick for construction and which shipped between ten and twelve thousand cars per year, in 1948 and in the previous years. In 1949 this firm shipped only eight thousand cars, and its policy is to ship five thousand cars or less next year because it is not satisfied with the service and, in addition, it enjoys favourable rates, especially since the increase, in shipping by truck.

I am not authorized to make a statement of principle in the name of the Chamber of Commerce regarding the centralizing policy of the trucking controls, but I believe that I express the opinion of the business men when I say that we are opposed to such a centralization and for several reasons. One of the main reasons would be that if the Union of the Railway Employees would step into the trucking business transport rates would perhaps climb again and double and even triple, because everyone knows that in these powerful unions the work is split to such a point that in certain cases a man is required to open a door and another one to close it.

I have nothing to add about paragraph 10 on page 3.

Q. Is this all your remarks on your memorandum?

A. I would have a word to add on the memorandum as a general conclusion. The recommendations on the points brought up in the additional memorandum almost complete the study of the transport problem at Quebec. It was impossible for us in the short time at our disposal to go deeply into the problem, and if it is the intention of the Commission to have the transport problem in the region investigated, the cases mentioned here could certainly be used.

Q. Has anyone any questions to ask? So, thank you, Mr. Poisson.

THE CHAIRMAN: We thank you.

(Page follows)

A.R.

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ROYAL COMMISSION ON TRANSPORTATION

OTTAWA, ONTARIO,
TUESDAY,
NOVEMBER 15th, 1949

THE HONOURABLE W.F.A. TURGEON, K.C., LL.D. - CHAIRMAN

HAROLD ADAMS INNIS - COMMISSIONER

HENRY FORBES ANGUS - COMMISSIONER

- - - - -

G. R. Hunter,
Secretary

P. L. Belcourt,
Asst. Secretary

- - - - -

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M. L. Rapoport	}	Canadian Automotive Trans- portation Association
R. Kerr		
	}	Board of Transport Commissioners
W. E. Darby, K.C.		
	}	Prince Edward Island

ROYAL COMMISSION ON TRANSPORTATION

Ottawa, Ontario,
Tuesday, November 15, 1949.

MORNING SESSION

R. E. MOFFAT, recalled:
EXAMINATION RESUMED BY MR. SHEPARD:

MR. SHEPARD: Mr. Chairman, before continuing with Mr. Moffat's evidence, I would like to make reference to the discussion which took place yesterday dealing with the policy-making powers of the Board of Transport Commissioners. It appears beginning in Volume 44 at Page 8491 of the transcript, and you, Mr. Chairman, at Page 8492 said that the assertion now is that the Board of Transport Commissioners is not fully carrying out the powers which it has under the Act in this respect, in aspects of making policy. Then you requested that we should furnish you with the sections of the Act, as I understand it, which now provide policy-making powers to the Board.

MR. CHAIRMAN: Yes.

MR. SHEPARD: And which are not now being fully utilized, in our submission, by the Board. Mr. Chairman, our basic submission is that these powers are included in the broad powers found in Section 325 of the Railway Act which places on the Board the duty to fix just and reasonable rates, and we consider that implicit in this duty is the necessity of the Board in performing its administrative functions to make policy in so far as various matters which we deal with in the brief are concerned.

Then our submission is, and it is brought out in the brief, I think, that the Board must exercise discretion and make its own policy with reference to

determining the various expense items which form a fundamental part of determining the level of rates. In addition to that I wanted to make reference briefly to about half a dozen other sections in the Railway Act.

Section 36 authorized, and apparently contemplates that the Board on its own motion can inquire into and determine methods within its jurisdiction.

MR. EVANS: That is limited to those things which could be made the subject of a complaint.

MR. SHEPARD: That is correct.

THE CHAIRMAN: What are you raising, Mr. Evans?

MR. EVANS: Those matters under Section 36 are all matters that could be the subject of complaint under the Act.

MR. MCLEAN: Or where application - - -

MR. SHEPARD: Quite.

MR. MCLEAN: That would include the raising or lowering of rates.

THE CHAIRMAN: It says here: "The Board may on its own motion, or shall on the request of the Minister . . ." I suppose you would call it on the request if somebody asked you to do something and they did it.

MR. SHEPARD: The point is that the Board by that Section, within the limits pointed out by Mr. McLean and Mr. Evans, has the right to make policy. It is perhaps an interpretation of the wording there, but our submission is that they have the right to take action on their own motion whether or not a matter is referred to it either by a complainant or by the government.

THE CHAIRMAN: I think we must then find out

what you mean by the word "policy" if it is to "inquire into, hear and determine, any matter or thing which, under this Act, it may inquire into, hear and determine. ."

MR. SHEPARD: Our submission in that regard, Mr. Chairman, our entire brief, the entire evidence of the Manitoba case, is that a matter of policy includes all the factors that we are now considering dealing with rates and dealing with the powers. We say it is the duty of the Board to follow certain principles in rate cases which include all the aspects that we are putting forward in reference to railway operating expenses, and we consider that this is a policy-making matter. Therefore any subsequent argument after the evidence is in, will be around those lines.

THE CHAIRMAN: Well, if I understood parts of your brief yesterday you would lay the responsibility of the Government, for policy rather on the shoulders/ wouldn't you?

MR. SHEPARD: They would be ---

THE CHAIRMAN: I understand that in certain cases you would have the Act provide three or four different ways of doing a thing on which naturally the government, whenever occasion required, would say, "Now, do it this way".

MR. SHEPARD: No, Mr. Chairman, with respect that was not our intention.

MR. CHAIRMAN: I beg your pardon?

MR. SHEPARD: That was not our intention.

Our intention was - - -

THE CHAIRMAN: Let us see just what you did say.

THE WITNESS: It is the bottom of Page 12 of Chapter 2 .

COMMISSIONER ANGUS: Which Page?

A. Page 12 of Chapter II of the mimeographed, Page

56 in the printed.

MR. SHEPARD: I think the sentence you are referring to, Mr. Chairman, is the one beginning:

"Furthermore, in cases where the Railway Act has laid down only the general lines of policy, the result will inevitably be that in many situations there will be several alternative policies which might be adopted, all of them perfectly consistent with the general policy laid down in the Act."

THE CHAIRMAN: Where are you reading from, Mr. Shepard?

MR. SHEPARD: It is at the bottom of Page 12 in the mimeographed brief.

THE CHAIRMAN: Yes, what I had in mind was what you say under the heading "The Board Should be Considered a Policy-Making Body". That is a little further on. There you say - - well, I don't want to read it all but what I got from the report of it yesterday under that heading was that the government was still to remain responsible for whatever the Board did, except that the government was not to interfere in the routine day-to-day work of the Board. Is that not right?

MR. SHEPARD: That is correct, Mr. Commissioner.

THE CHAIRMAN: That is what I say, that according to what you have under this heading it is merely the government who is to be responsible for questions of any importance. Is that not right?

THE WITNESS: Not necessarily, sir. They have the authority to interfere but they do not necessarily exercise the authority on every occasion.

THE CHAIRMAN: Q. Well, when cannot they exercise it?

A. The phraseology, as I remember it, is something to the effect that whenever - - -

Q. You see, there can be no argument with the fact that the final responsibility for public policy decisions in this field, that is the railway field, must rest with the highest policy-making body, namely the Dominion Government:

"As was pointed out in the brief . . . railway transportation is so vital and has such monopolistic characteristics that our people are firmly of that view. But we are also of the view that it would be completely unrealistic to suggest that the Dominion Government should directly deal with a day by day administration of that policy, or that it should attempt to lay down broad principles of policy without the benefit of detailed study by persons who are in close touch with the matters concerned."

I don't want to read it all, as I say.

(Page 8571 follows)

A. There is the other sentence sir, on page 12 "What we have in mind is that if a particular issue arouses strong public concern, it might be suggested that that matter is exclusively a problem for the Board to decide, and that consequently the Government can do nothing about it". In other words the thought develops from there that because of that situation it is our view that the responsibility and authority should be clear that whenever an issue does arouse strong public concern -

THE CHAIRMAN: Where are you reading from now?

A. Page 12 of chapter 11.

Q. And in the printed volume, where?

A. Page 56, almost the middle of the page.

Q. Didn't you give me the example yesterday, for instance, on the question of depreciation? You said that the determination of depreciation should be left to be done in various ways?

A. Yes.

Q. And that the Government should from time to time or when occasion offers, tell the Board which way they are to pursue?

A. No sir, I don't think that is what I said. It certainly was not what I intended. What I intended was that they should have the right to if it seemed to be an issue of sufficient public importance, but that in ordinary conditions, it would be left entirely to the Board. I did not intend the exact wording I said yesterday.

Q. How would that work out? The Board has before it an application to authorize freight rates and then, according to the Act as you would frame it, they might deal with the question of depreciation in two or three

different ways?

A. That is correct.

Q. And when the Government then says "Now here, this year you will deal with it this way" yesterday you said yes?

A. I said they would have the authority to make such a recommendation but that we did not feel that they should necessarily exercise all their authority on every occasion, and that in a good many cases the issue would be left entirely for the Board to deal with.

Q. Well, you say here "at the same time no one can accept the proposition that policy decisions in such an important field as this should be final if made by a body other than the Dominion Government. The ultimate responsibility for public policies must rest with the Government "?

A. Yes.

Q. Well, perhaps we can find a way through it but is it in that connection that you are talking now, Mr. Shepard?

Q. MR. SHEPARD: Yes, Mr. Chairman.

THE CHAIRMAN: You see, let us remember this, that before there was a Board the Government did all these things and that was found to be an unsatisfactory way of dealing with it and that is why an inquiry was held during the last years of the last century and the beginning of this one, and the consequence was that this Board was set up which seemed to be - I would not say the ideal way, but a much, much better way of handling matters of this sort than the way previously followed. I thought, according to you as I heard these pages read yesterday, that there was a tendency here rather to go back to the old method.

MR. SHEPARD: I do not think that was actually the intention. Perhaps if I followed along your illustration of depreciation, sir, just for a moment it would help to explain what we have in mind. In the 30% Case it was the contention of the province that the matter of depreciation was something that had to be determined by the Board of Transport Commissioners. In other words, our contention was that the Board should under the broad powers conferred on it in fixing rates, make a definite finding as to what method of depreciation should be adopted for rate making purposes. On that particular one the Chief Commissioner Mr. Cross, did not make a finding as to what a proper method was. He did not say: "Straight-line depreciation is proper for this case or user-basis is proper for this case" .. I am not going into the reasons for it, but the fact is we contended then and we still contend that it was incumbent upon the Board in performing its broad powers to have made a finding whether it was that the user basis should be adopted or whether the straight-line method of depreciation should be adopted. That was not done. We then took an appeal to the Cabinet, as you know sir, and one of the matters referred back to the Board of Transport Commissioners was a direction on this matter of depreciation, and we contend that it is all very well to have broad powers in the Act -

THE CHAIRMAN: What was the direction? Did the direction say "You shall vary this method"?

MR. SHEPARD: No, that was the point I wanted to make. We are not saying that the Dominion Government should lay down the method of depreciation or the method of any set item of expense.

THE CHAIRMAN: Then that is a change from what we were told yesterday.

MR. SHEPARD: But we do say this, sir, that the Board must lay down some method and if it does not do so, the Dominion Government should have the authority to direct it to do so, and for that matter the Dominion Government should have the authority to review the method laid down and direct another method if it so desires.

THE CHAIRMAN: Then you would have the Dominion Government finally responsible for directing a method of depreciation which the Board would adopt?

MR. SHEPARD: Final responsibility I would say, sir, but the way we envisage it, as I understand Mr. Moffat's evidence, is that that would only be a safety measure, and would normally not be implemented at all. In other words, the Board would continue to function but if it failed to function along lines of Government policy, the Government could direct it.

MR. O'DONNELL: The Government would be managing railways at that rate.

THE CHAIRMAN: Does anybody doubt that the Board has power now to decide which method of depreciation is to be adopted and followed?

MR. SHEPARD: No, I don't think anybody does doubt that sir.

THE CHAIRMAN: Then if that is the case, isn't it also obvious that the Board has to change its method from time to time as directed by the Dominion Government and say: "This year we will follow this method; last year we followed the user method" and change again for a third method? Or is it to be left entirely to the Board to decide, as up to the present it is? That is one thing, but if the Board is not left free in that very important particular, then I think your submission is that it ought

not to be left free, isn't it?

MR. SHEPARD: No, our submission is that it should be left free to do so but if it does not do so, there should be power for it to be directed to do so.

THE CHAIRMAN: To direct the Board to adopt one method or the other?

MR. SHEPARD: Yes. That is, if the Board does not do it of its own volition or of its own motion.

THE CHAIRMAN: Then there would be no interference with the Board if the Board said for instance: "We are going to adopt a user method" - that would be final?

MR. SHEPARD: Broadly, we say that the functions of any administrative tribunal are subject to the directions of the Government.

THE CHAIRMAN: So, the Government could say: No, you are not going to follow the user method; you are going to take the other"?

MR. SHEPARD: That is possible sir.

THE CHAIRMAN: Well, there it is. The Government has a final power and the responsibility there of deciding which method of depreciation is to be followed?

MR. SHEPARD: That would be right in the method you are putting it, sir.

THE CHAIRMAN: No, it is the way you are saying it I am interested in.

MR. SHEPARD: Well, the way we are saying it is that that right would be there, the power in the Government to do that would be there.

THE CHAIRMAN: And when would the Government exercise that power?

MR. SHEPARD: They would exercise it only if the Board failed to exercise it, or if the Board exercised it in a manner inconsistent with national policy.

THE CHAIRMAN: So then, if the Board said: "Now then we have decided to adopt this method of depreciation", that then would be final, wouldn't it, because the Board would have to?

MR. SHEPARD: That would be final; it would be a determination -

THE CHAIRMAN: Didn't you say that the Government would only interfere if the Board did nothing?

MR. SHEPARD: I put it on two grounds. I said that the Government would only interfere first of all, if the Board failed to carry out its duty with respect to depreciation.

THE CHAIRMAN: Now what is its duty?

MR. SHEPARD: To determine what method of depreciation should be followed or, in the alternative, if the Board adopt some method which the Government considers not in the best interests of the country.

THE CHAIRMAN: Although authorized by the Act?

MR. SHEPARD: Yes.

THE CHAIRMAN: Then the Government would say: "Now, change your method"?

MR. SHEPARD: Yes.

THE CHAIRMAN: And the Government is then the party who really decrees the method of depreciation?

MR. SHEPARD: But our submission is that it is in any event because it is legislative authority that sets up the Board in the first instance.

MR. O'DONNELL: Parliament does that.

THE CHAIRMAN: Well, Parliament enacts an act which is intended to be the charter under which the Board carries on, but if I understand you properly the matter is really very important. You would alter the character of the Board now by bringing the Dominion Government back again into a

field it had got out of fifty years ago.

MR. SHEPARD: In a measure only, sir.

THE CHAIRMAN: You mentioned that one instance, that of depreciation. Are there other matters of policy where the same would apply from now on, that the Government would have the responsibility of interfering, besides that of depreciation?

MR. SHEPARD: Yes, there would be. I think perhaps Mr. Moffat could deal with those other things as he goes along.

THE CHAIRMAN: Well there is that. You say here, and you must give some substance to the statement that: "At the same time no one can accept the proposition that policy decisions in such an important field as this - " (I suppose that is the railway field) should be final if made by a body other than the Dominion Government. The ultimate responsibility for public policies must rest with the Government". Now that is under a heading where you say "The Board should be considered a policy making body".

MR. SHEPARD: Yes sir.

THE CHAIRMAN: All right, Mr. Shepard, go on.

MR. SHEPARD: I might just put on the record certain section references. I had not quite given them all and then I will proceed with Mr. Moffat's examination.

THE CHAIRMAN: Will you pardon me a moment? I want to make sure we have what you did give us.

MR. COVERT: Sections 325 and 36.

THE CHAIRMAN: The first case is 325?

MR. SHEPARD: Yes sir, and then 36.

THE CHAIRMAN: Now 325 says that "The Board has authority to determine and enforce just and reasonable rates, and to change and alter rates as changing conditions or cost of

transportation made from time to time require - ".

MR. SHEPARD: Yes sir.

THE CHAIRMAN: And on the question of just and reasonable rates you say that that language is so broad that it gives the Board jurisdiction to go into all sorts of things?

MR. SHEPARD: Yes sir.

THE CHAIRMAN: And hitherto the Board has bound itself unduly?

MR. SHEPARD: That is right.

COMMISSIONER ANGUS: Are you saying that just and reasonable rates would include rates fixed in the public interest for promoting development or helping a backward industry or something of that kind?

MR. SHEPARD: I don't know that I am the one to answer that question.

(Page 8582 follows)

THE WITNESS: I wonder if I might answer that, sir. I think the answer is no.

THE CHAIRMAN: Q. I beg your pardon?

A. The answer to his question as he stated it completely is no. If he had stopped halfway through, if he had said, do we interpret that as a requirement that they set rates in the public interest, the answer would be yes. But I do not think it should be extended to the extent of giving them authority to decide that such-and-such an industry should be developed in this area, and therefore a low rate should be provided for that industry. In other words, we would not like to see the Board of Transport Commissioners made into an economic planning board.

Q. You do not want that?

A. No; but, on the other hand, we do think that they ought to take into account questions of national importance, national policy, such things as equalizing rates in all areas, such questions as whether one area may be making more profit to the railways than another area and consequently one area being subsidized at the expense of another -- questions of that sort, yes, but not questions which go to the development of an individual industry.

COMMISSIONER ANGUS: Q. You are defining public interest rather more narrowly?

A. That is right.

COMMISSIONER INNIS: You want planning without being able to use the word "planning".

THE WITNESS: Well, I think there is a distinction there between planning which is directed primarily towards equalizing opportunity and equalizing transportation costs by areas, and planning which is directed towards giving particular assistance to one area at the expense of another. It is more in the first sense rather than in the second

sense, but still I suppose it is planning.

THE CHAIRMAN: Q. For instance, the Board itself said on one occasion, which was in the judgment of March 30, 1948:

"The Board is given power to deal, inter alia, with the reasonableness of the rates. It is nowhere authorized by Parliament to be an arbiter of industrial policy."

Do you agree with that? Do you think that is the way it should be?

A. That is the way it should be, yes. I would not offer any opinion as to whether it is or not, but I think it should not be.

Q. Then they go on to say:

"Opinions may differ as to different lines of development, but the Board's functions in approaching a rate situation are concerned with ascertaining the reasonableness of the rate, not with applying to a rate situation a preconceived opinion as to what type or method of industry should be helped by a modification of the rate."

That is what they say.

A. Yes, that is consistent with our thought, but on the other hand we think in terms of a pre-conceived idea of what the rate structure should be in terms of equality, which we develop fairly extensively in one of the other chapters; but it is only in the part which is working towards equality of cost and of opportunity by regions that we think they should work towards a pre-conceived rate structure.

Q. Then they go on, and finally wind up by saying:

"It is not the Board's function, as delegated by Parliament, to make rates to develop business, but to deal with the reasonableness of rates either on com-

plaint or of its own motion."

They confine themselves to that, you see. Is that too narrow, do you think?

A. No; we would agree with that, provided that they used their own motion more extensively, and did not wait for cases to be brought to their attention to the extent they have in the past.

Q. Do you mean more frequently or more broadly?

A. Both.

COMMISSIONER ANGUS: Q. And it would follow from your view that the Board should not deal with developmental matters and so on, that the Government also should not deal with them?

A. That is entirely a question for the Government. If the Government wants to deal with them the Government can deal with them as it sees fit, but it should not---

Q. By legislation or by directive?

THE CHAIRMAN: Q. They specify a little further on -- a matter about which we have been hearing something:

"It is no part of the obligations of the railways, under the Railway Act, to equalize costs of production through lowered rates so that all may compete on an even keel in the same market."

They seem to approve of that. However, there is so much said here that there is no use reading it all. Then do I gather that you also think that the Board's powers are not unduly stated here when they say that their function is to---

A. On that particular point, yes.

COMMISSIONER ANGUS: Q. Are you quite clear about the question I asked just now?

A. No, I was not.

Q. It seemed to me that if the Board was to be precluded from dealing with rates on a planning basis, and

if the Government in the sense of the Railway Committee of the Privy Council were acting in a revisionary capacity, deciding what the Board should have done, it could not logically decide that the Board should have done something which it had no power to do.

A. Well, that is one of the points that we spent a good deal of time discussing amongst ourselves.

Q. Could you give us the benefit of your discussion?

A. And trying to come to some conclusion on it. I do not think there is really a logical answer to it. What we have put into the brief here is the conclusion we came to as the most satisfactory over-all conclusion.

Q. What is the conclusion on that point?

A. Well, I am not too sure whether there is a conclusion on that particular point. In a sense it comes back to how are we going to prevent political interference in the bad sense of political interference, and I do not know what the answer is to that in a democracy -- after all, in a democracy politics is the essence of government, and I do not think there is an answer -- how you prevent some of the undesirable reatures getting mixed in with the desirable features.

MR EVANS: Perhaps you should change your views on that; that may be one answer.

THE WITNESS: Well, there is this to be said about it, that the undesirable features of the alternative seem to us even more serious than the undesirable features that are involved in the point you raise.

THE CHAIRMAN: Q. Then can you tell me what this means? We read this yesterday:

"On the other hand the body which is to administer the Act" -- that is, the Board -- "must, of necessity, base its decisions upon ^{the} considerations of fact which

go far beyond the limits of railway operations as such."

A. What we had in mind there, sir, is this sort of thing---

Q. Pardon me; then they say:

"It is therefore essential that the Act make it clear that the Board has the power and responsibility to consider such matters."

A. Yes. Well, what we had in mind there is, questions not as to the rate for a particular commodity or a particular industry, but questions of this sort, whether the prospects ahead indicate a period of prosperity in which we could look forward to a fairly high traffic volume, in which we could look forward to a rising price level, in which we could expect maybe higher wages and rising costs and rising prices of farm produce generally -- things of that sort, which will come into their decision as to whether or not the country can pay a higher level of rates in order to make possible improved standards of service, or whether the general economic situation seems to indicate that things should be stabilized and held at their present level as tightly as possible. It is factors of that sort that we had in mind there rather than a particular rate for a particular industry or group of industries.

COMMISSIONER ANGUS: Q. That question of a rising price level gives an almost perfect illustration of a question I asked yesterday about a competent Board. Would you say a Board was competent if it made a prediction about the price level that was in fact realized, or if it made a prediction about the price level which was popular with the democratic community but proved to be contrary to fact? Which is the more competent Board, as you use the word "competent"?

A. Well, certainly the one that is more factual in its conclusion. If it is trying to prepare an estimate of a factor, of a prospect, why, certainly it is factual then.

Q. I understood you to give me exactly the contrary answer yesterday, that it was to be the popular character of the prediction that mattered.

A. No, only as to the policy to be put into effect. I think there is a fairly sharp distinction, sir, between an estimate or a prediction of the fact, as to what is likely to happen---

Q. And the policy based on that prediction?

A. Yes, sir. There could be quite a distinction.

Q. So you mean if a Board foresaw the price level was going to rise and based its policy on that assumption, which proved correct, it was nevertheless an incompetent Board, because it should have diagnosed public opinion and based its policy on the contrary assumption, which was incorrect?

A. Oh, no.

Q. That is going a long way.

A. That is going too far altogether. I do not think that necessarily follows through, does it, sir?

Q. Well, show me where I am wrong. I am trying to get at your meaning of the word "competent" as applied to a Board. Does it mean competence of an expert in matters of economic policy, or does it mean the competence of an expert in the sense of anticipating a Gallup poll?

A. Probably both, to some extent. Certainly the primary meaning of "competent" must be that of an expert estimating prospects and estimating engineering information and that sort of thing; but you cannot possibly have this sort of issue, which is roughly ten per cent of the total

wealth of the country, run purely on the basis of expert opinion as to what ought to be done. There has got to be some attention paid to what the public wants, otherwise -- we have a democracy in this country, and we have to pay some attention to public opinion. It cannot be entirely expert. On the other hand, it has got to have the best possible expert advice and the best possible estimates of what the facts are, what the facts are likely to be, and then applying to that its judgment on the basis of those facts, plus some element of democratic government. You cannot have either one without the other.

THE CHAIRMAN: Q. How do you ascertain what public opinion is?

A. That is the whole bottom of democratic process; that is what we have been struggling for thousands of years to figure out, what is the best method.

Q. How do you expect the Board to find it?

A. The only criterion they have is the Government of the day ; they are elected for that purpose.

Q. The Government?

A. Yes.

Q. Then we get back to where we started?

A. I think we do come back eventually to where we started.

Q. You see, they say:

"In situations such as these we feel that it should be made clear that the Dominion Government has the authority to designate which of those alternative policies is to be applied;" -- that is, designate to the Board -- "We feel that the Dominion Government should have the power and the responsibility to take such action either of its own motion or ^{upon} application." That is, in cases where the Railway Act has laid down only

the general lines of policy, the Dominion Government must tell the Board what to do. Do you think there is no danger in that sort of Board being in existence, Mr. Shepard, which acts according to the directions of the Dominion Government of the day?

MR SHEPARD: There may be a danger, Mr. Chairman, but we submit that no government can escape from its basic responsibility for the functioning of any administrative tribunal that is set up under legislation that is in existence.

THE CHAIRMAN: Why do we have these tribunals?

MR SHEPARD: It is a delegation of government authority and government function.

MR EVANS: So are courts.

THE WITNESS: No, no.

THE CHAIRMAN: No; it is a creation of Parliament.

MR SHEPARD: I should not have said Government, Mr. Chairman. It is a delegation of parliamentary authority.

THE CHAIRMAN: Parliament creates the Board and gives it certain duties.

MR SHEPARD: Yes.

THE CHAIRMAN: Has it always been considered that it is in the interest of everybody that the Board exercise its judgment impartially, without taking directions from the Government or from anybody else?

MR SHEPARD: Within the framework of the Act, Mr. Chairman; but the Act is always subject to change by the Parliament of the day.

THE CHAIRMAN: Well, Mr. Shepard, you said you had certain explanations to make; perhaps we have been making them for you.

MR SHEPARD: Well, I have given you, Mr. Chairman, section 325 and section 36.

Then I wanted to give a reference to section 69. I do not know that it is necessary for me to read these to the Commission. If I just give you the section numbers, perhaps that is sufficient.

THE CHAIRMAN: Section 69, you say?

MR SHEPARD: Yes; it authorizes making inquiry into anything within the Board's jurisdiction.

THE CHAIRMAN: Yes, but the thing must be in the Board's jurisdiction.

MR SHEPARD: Yes. We submit that the broad jurisdiction is found in 325.

Then the next section to which I would refer is section 314.

THE CHAIRMAN: 314 is the one which provides for the equalization of rates.

MR SHEPARD: That is correct; and also imposes a duty on the Board of preventing discrimination.

Then section 317 gives full power to the Board to determine as a fact whether discrimination exists, and also gives power to the Board to make regulations.

THE CHAIRMAN: That is subsection 2, is it not:

"The Board may by regulation declare what shall constitute substantially similar circumstances and conditions, or unjust or unreasonable preferences, advantages, prejudices,"
and so on.

MR SHEPARD: Yes, Mr. Chairman.

Then section 320, Mr. Chairman, gives the Board power to decide in the public interest whether undue preference has been shown in granting a lower toll to attract traffic.

THE CHAIRMAN: That is about competitive rates, I suppose.

MR. SHEPARD: Yes, sir, and Section 322 is the last one I would refer to now. It gives the Board full power over the matter of freight classifications.

THE CHAIRMAN: And are you giving us the powers which the Board has now?

MR. SHEPARD: Yes, sir.

THE CHAIRMAN: And you also intend, do you, to suggest amendments that would enlarge those powers?

MR. SHEPARD: Yes, sir. Our submission in argument, and it was our intention to make it at that time later on, is that certain of the submissions that we are making are now within the powers of the Board, within the jurisdiction of those sections we refer to this morning; certain others are not and therefore the Act should be amended so that they could be; as to certain others, we are not too sure whether they are or not, and we will try to make up our minds before argument on that.

MR. EVANS: I think I ought to say that when one is considering a position which arises from a proposal to amend a statute, one cannot ever be sure what the implications of the proposal are until one sees the draft; and if my friend comes along in argument and puts forward amendments, then we will not have had time to analyze those amendments and perhaps offer some evidence about them, because, you see, the effect of a given proposal to amend the statute has practical importance and we might want to offer evidence which would establish the effect of any proposal. It does seem to me that my friend cannot come along in argument and put forward specific proposals for amendment.

MR. SHEPARD: Mr. Chairman, I am rather inclined to

agree with my friend, Mr. Evans, and as a matter of fact it was not our intention actually to submit the wording of the suggested changes in the Railway Act. We consider that if changes are to be made, the various recommendations that the Commission may see fit to make at the conclusion of the hearings must be considered together and integrated so that the Act can be amended if necessary.

It seemed to us idle for us to try and implement every one of our separate submissions by actual draft legislation. As far as we considered it was our duty to go, was to say either that this submission is satisfactorily taken care of in the Act now, or it is not and will require legislative change to accomplish the desired end. We considered that was as far as we could go to be of any useful assistance to the Commission.

THE CHAIRMAN: You don't intend then to draft any amendments yourselves?

MR. SHEPARD: No, sir.

THE CHAIRMAN: I think the position is this, that if you are going to bring in a submission, that ought to be done very soon or at once.

MR. SHEPARD: I would agree, sir.

THE CHAIRMAN: But you don't intend to do any such thing?

MR. SHEPARD: No, sir. May we proceed with Mr. Moffat's examination?

THE CHAIRMAN: Yes.

COMMISSIONER INNIS: Before you turn to that chapter there is one other point on which I would like a little elaboration. On page 69 of your printed brief you have a good deal to say about the C.P.R. as a

yardstick, and you say something about earning a satisfactory return. Do you mind saying what you think a satisfactory return is?

A. That subject is discussed very briefly in the chapter after we have completed the discussion of the various expenses. I could tell you that you will find that section to be far from complete. It simply takes the position that in the view of the Manitoba Government it is not possible to define in advance what is a satisfactory return; that this is a question which has to be left for decision by the appropriate authorities at the time when the question is up for settlement; and that we think it not only impossible but undesirable that any attempt should be made to define reasonable return on a continuing basis.

Q. You do not mean then that a reasonable return should be maintained over a series of years, but you would regard it as something that is extremely elastic and flexible?

A. Well, it depends on the meaning you would attach to "extremely elastic".

Q. I was thinking, for example, that I suppose you have in mind the comments of the Board to the effect that there should be 7 per cent, or perhaps 7 per cent plus 3 per cent on other income, or 10 per cent. Would you go so far as to say that that should have been paid, say, for 1930 all through the depression?

A. Again I have to take somewhat the same position as I took on the wage question yesterday: that the instructions which we are directed to say on behalf of the Manitoba Government is that this question of railway returns is one on which they would prefer we should not advocate any particular yardstick at the

moment -- except to say that we thought that any yardstick, regardless of what it is, should not be considered as something rigid and unchangeable but as something to be decided from time to time as the problem arose.

THE CHAIRMAN: Q. Would it be fair to say that in your opinion a reasonable return would be the minimum return sufficient to enable the railway to maintain itself as a private enterprise, or would you give them more than that? You see, you say here that unless the C.P.R. has a reasonable opportunity to earn a satisfactory return if operated efficiently, it cannot maintain itself as a privately owned enterprise.

A. I had not thought of that particular phraseology. It appeals to me on the spur of the moment as being reasonably acceptable provided that the word "minimum" was not defined too precisely.

Q. Perhaps the word "minimum" is too definite. Then you go on to say:

"For these reasons it is our view that in the future the level of freight rates in Canada will have to be geared closely to the needs of the C.P.R. . . ."

that is, its needs in maintaining itself as a private enterprise?

A. That is correct.

Q. "-- unless the C.P.R. is to face the risks of bankruptcy or nationalization."

A. That is correct.

Q. Which you do not want to see happen?

A. No, that puts it very strongly, that it is our government's view that the C.P.R. should be maintained as a private enterprise and that its earnings

must be kept up to a level sufficient to allow it to do so.

COMMISSIONER INNIS: But you won't say 7, 5 or 3 per cent?

A. No, very definitely we would take the position that no specific figure should be named, that it is a question that should be left reasonably flexible.

Q. "Yardstick" is hardly the proper word for that type of flexibility?

A. No, it may not be.

COMMISSIONER ANGUS: Q. What is your reason for attaching value to the C.P.R. as a private enterprise?

A. I do not think I can give you very much more than the words of the brief on that.

Q. You say it is a view you hold very strongly.

A. It is stated quite strongly in the very last paragraph of the first chapter:

"We feel that administrative efficiency, operating efficiency, and service to the public, will all be maintained at a better standard if Canada continues to have two competing major railways, one privately owned and one owned by the Dominion Government."

MR. SHEPARD: Mr. Moffat, turn now to Chapter V. This chapter, Mr. Chairman, deals with the subject of "Renewals, Retirals and Depreciation of Plant," and before Mr. Moffat deals with it perhaps it would be in order just for me to put on the record the reference in the 8 per cent interim award to this subject. It begins on page 5 of the printed copy of the judgment.

Mr. Moffat, would you proceed to deal with that chapter as you have in mind?

THE CHAIRMAN: Are you going to give this a reference? I mean, are you going to read it?

MR. SHEPARD: I will if you would like me to.

THE CHAIRMAN: I think you had better. What did the Board say there?

MR. SHEPARD: It is quite lengthy. There is one sentence only that I might read:

"The examination and cross-examination of the many witnesses called by the applicants on this point --"

That is the point of depreciation.

" -- justifies a finding by this Board that the straight line method should have been adopted." Then there is quite a lengthy passage dealing with the subject in addition to that.

THE WITNESS: In order to put this chapter --

MR. EVANS: May I, before my friend goes on, may I ask whether Mr. Shepard agrees with that section of the judgment? Is he putting it forward on the ground that he believes in it?

MR. SHEPARD: I am not in the witness box, Mr. Chairman.

THE CHAIRMAN: Well, he calls attention to the fact that the Board said so and so. Now he is proceeding to question Mr. Moffat. Eventually we will see whether Mr. Shepard agrees with it.

MR. SHEPARD: Yes, Mr. Chairman. I think it is indicated pretty well in the chapter that Mr. Moffat is trying to get to. Will you proceed, Mr. Moffat?

THE CHAIRMAN: All right, Mr. Moffat.

THE WITNESS: In the chapter immediately

preceding this we have developed the pattern here, namely, that there should be careful inquiry into all aspects of railway expenses, and this chapter then is devoted to the one specific and important item of railway expenses, namely, the provision for the renewal, retiral and depreciation of plant.

CHAPTER VRenewals, Retirals and Depreciation
of Plant

At several points in this brief we have already expressed the opinion that the people of Canada must, either by freight rates or by other means, pay the necessary cost of providing Canada with railway service. Obviously, one of the costs is the amount necessary to provide for the retirement or renewal of the railway plant at the conclusion of its useful life. In this chapter it is our purpose to outline our suggestions as to the manner in which a decision should be reached as to the proper amount to be provided for that purpose. In order to clarify certain principles which the Manitoba Government submits to be in need of clarification, it will be necessary to deal with the question of plant retirement and renewal provisions in somewhat more detail than has been necessary in the other sections of this submission.

The C.P.R. in its present retirement policy, deals with its plant in three main categories:

1. Rolling stock
2. Road Depreciable -- principally "structures"
3. Road Non-Depreciable -- principally "way"
including rails, ties, ballast, grading, track-laying and surfacing.

In 1948 the C.P.R. set aside \$28,529,000 in its depreciation reserves to provide for the retirement of assets included in categories "1" and "2" above.

That is to provide for retirement of assets in the rolling stock and road depreciable groups.

In addition, an indeterminate amount was spent for renewals of such portions of non-depreciable road

as were retired in that year.

It is obvious that an item of this magnitude could not be overlooked in any thorough review of railway operating costs and consequently the question of propriety of the annual depreciation provisions of the C.P.R. was discussed at very great length in both of the recent rate cases.

Past Practices

During its history, the C.P.R. has used three different methods to recover or preserve the basic value of its capital assets used in the service of the public. The three methods are:

1. The renewal method -- Under this method, when the plant is first purchased, its original cost is paid out of capital and the investment of the owners in the company is increased accordingly. When the useful life of the asset is ended and a new asset is bought to replace it, the cost of the replacement unit of like capacity is charged to the user as an operating expense of the year in which the replacement is made. The "first original" cost remains in capital account -- presumably in perpetuity.
2. The retirement method -- Under this method, as with renewal accounting, the "first original" cost is capitalized. But when the useful life is ended, the user, through current operating expenses, is charged an amount equal to "first original" cost and the funds so released are used to remove the item from capital account and reduce investment accordingly. The cost of the replacement is capitalized and takes

the place of the "first original" cost of the retired asset, in the investment account.

3. Depreciation Accounting -- As in the other cases, the "first original" cost of the asset is capitalized. Thereafter the user pays an annual amount through current operating expenses sufficient that when the annual amounts are accumulated during the useful life of the assets, they equal the "first original" cost. When the unit is retired, the accumulated reserve is used to offset the "first original" cost and remove it from the investment account. The cost of the replacement unit is then capitalized in the same way as in the retirement method.

Depreciation accounting is thus seen to be one among several methods of dealing with the same problem. Its peculiarity lies in the fact that when it is used, the original cost of a capital asset is spread over the years of its useful life.

A definition of the term "depreciation" which was quoted with approval by both sides in the recent rate cases, was this:

"Depreciation accounting is a system of accounting which aims to distribute the cost or other basic value of tangible capital assets, less salvage if any, over the estimated useful life of the unit (which may be a group of assets) in a systematic and rational manner. It is a process of allocation not of valuation. 'Depreciation for the year' is the portion of the total charge under such a system that is allocated to the year. Although the allocation may properly take into

account occurrences during the year, it is not intended to be a measurement of the effect of all such occurrences."

In all three cases the owners of the company provide the original capital for the purchase of the assets on first acquisition. The fundamental distinction between the three methods is this. In the case of renewal accounting, the users of the service pay for the replacement in the year in which it goes into service as a replacement. In the case of retiral accounting, the users of the service pay for the asset in the year in which it goes out of service. In the case of depreciation accounting, the users of the service pay for the asset by means of a regular annual charge which is set aside and accumulated into a reserve.

This next section gives a brief review of the manner in which those three different systems have been applied in the C.P.R. accounts, and points out that each of those three methods has been used at different times during the history of the C.P.R., accounting for different groups of assets.

The section then gives a brief account of what has happened in the last nine years in regard to rolling stock provisions which were put onto depreciation accounting in 1940. The point we wish to emphasize there is that during that nine-year period the amounts accumulated into the depreciation reserve amounted to \$128.7 million; whereas the reserve was only called upon to the extent of \$27.2 million as the value of the rolling stock capital items retired against the reserve during that period.

The suggestion is that if the amount being put into the reserve exceeds the amount being taken out

of the reserve by such an amount, there is need for a careful review of the situation.

The remainder of the chapter then goes on to deal with particular aspects of the depreciation practices and the recommendations which are listed at the middle of the chapter, and the following part of the chapter takes each one of those five recommendations and elaborates and discusses them in turn.

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The C.P.R. has used each of these three methods at different times in its history and for different parts of its capital equipment. It began with the first method, the renewal method, and followed that practice for all three classes of plant until 1930. At that time, rolling stock was changed to the second method, namely the retiral basis, whereas road items remained on the renewal system.

During the 1930's the C.P.R. handled its rolling stock according to the retiral system which had been introduced in 1930, but in 1940, depreciation accounting was introduced in respect to rolling stock. In 1942 a substantial part of the road assets were transferred directly from renewal accounting to depreciation accounting, although the major part of road items have always remained on the renewal system. In other words, in 1942, road assets were divided into two groups, road depreciable and road non-depreciable. The first group consists mainly of road structures and is considerably smaller in value than the second group which consists mainly of roadway items.

It will be noticed that this change in the method of dealing with the cost of capital equipment, is a relatively new thing with the C.P.R. and consequently, comparisons between the accounts of the C.P.R. in the years following the war, with the accounts of the C.P.R. in the years immediately prior to the war, are complicated by the necessity of taking this change into account. For that reason, it is not possible to give, for the years 1935 to 1939, an item which is exactly comparable to the \$28,529,000 which was set aside for depreciation reserves in 1948. The best available comparison would be to add together rolling stock retirals and road

structure renewals in the earlier years. Unfortunately, no figures are available regarding road renewals and consequently it is necessary to estimate structure renewals by applying an adjustment figure to retirals. If it be assumed that road structure renewals were exactly double the figure for retirals in 1939, the 1948 figure of \$28,529,000 is comparable to a 1939 figure of \$9.6 million.⁽¹⁾

Obviously, the mere fact that the provision for capital retirements has risen from \$9.6 million to over \$28.5 million between 1939 and 1948, does not in itself prove that the 1948 figure is excessive. The size of this increase does, however, call for careful investigation and it is the submission of the Manitoba Government that your Commission should recommend the criteria and the yardsticks by which the Board of Transport Commissioners should be guided in attempting to reach decisions as to the propriety of the accounting policies governing retirement and renewal of railway plant.

In many respects, the determination of the appropriate policy in this regard, is one of the most difficult and complicated matters in the whole field of public utility regulations. If renewal accounting or retiral accounting is being used, the problem is still complicated although it is somewhat simpler than in the case of depreciation accounting. In either renewal or retiral accounting, the problem is that of deciding upon which method is to be used, of determining the cost of the asset to be retired and of the new asset which is to take its place, and of dealing with the fact that the new assets may involve some element of improvement or of

(1) 30% Case, Exhibit 333 D and J: rolling stock	
retirals	\$7.4
Road structure retirals (\$1.1 x 2)	2.2
	<u>\$9.6</u>

increased efficiency and may therefore not be an exact replacement of the old asset. In the case of depreciation accounting, however, all these problems are equally important, and there is involved, in addition, the question of preparing satisfactory estimates of the useful life of the assets in question. Obviously, if the cost of the asset is to be distributed over its years of usefulness, it becomes necessary to establish, in advance, some estimate of the number of years during which it will be useful.

Before proceeding to an analysis of the method by which it is suggested that this question should be decided, it seems advisable to look briefly at the results which have been produced by the C.P.R.'s present depreciation provisions.

Rolling Stock Provisions

If attention is first directed toward the rolling stock item, the situation is as follows. The annual amounts provided each year from 1940 to the present, have been as follows:⁽¹⁾

	<u>\$ million</u>
1940	10.3
1941	12.7
1942	12.8
1943	14.0
1944	15.2
1945	15.5
1946	14.4
1947	14.9
1948	<u>18.9</u>
Total	128.7

The value of the rolling stock capital items retired against the reserve each year, have been as follows:⁽¹⁾

(1) 30% Case, Exhibit 335A; 20% Case, Exhibit 49/31; Annual Report, 1948.

	<u>\$ million</u>
1940	4.8
1941	2.1
1942	1.2
1943	1.7
1944	2.2
1945	3.6
1946	4.1
1947	3.4
1948	4.2
	<hr/>
Total	<u>27.2</u>

The first point to which we would like to direct attention is that during this period, the amounts set aside in the depreciation reserve have averaged \$14.3 million per year while retirements charged to the reserve have averaged only \$3.0 million. In other words, the annual amounts set aside to pay for capital items used up have averaged 4.7 times (almost 5 times) as much as the amounts taken out of the depreciation reserve, to pay for the capital items retired during the period. It is, of course, true that in any one year, or in a number of years, the situation may be such that the company is using its capital equipment to the full and is buying new equipment and not retiring old equipment. If that situation exists, it is right and proper that the amounts set aside in the depreciation reserve should be substantially in excess of the cost of the capital items retired. If, however, depreciation provisions are greatly in excess of retirement for a period of time which is a significant part of the total lifetime of the assets in question, then that situation is not satisfactory.

Some indication as to whether or not this is an abnormally low figure, can be secured from the record of retirements in previous years. It has already been

pointed out that between 1940 and 1948 retirements charged against the rolling stock depreciation reserve, averaged \$3.0 million. This figure retains the cost of items retired minus their salvage value when retired. No strictly comparable figures are available for earlier years, but comparisons can be made on the basis of the cost of items retired, i.e., without the deductions of salvage. From 1940 to 1948, gross retirements averaged just under \$4 million per year. In the preceding ten years they averaged \$3.6 million per year, while during the ten years 1920 to 1929, renewals of rolling stock averaged \$5.5 million per year.⁽¹⁾

Another perspective on this matter is to consider the annual depreciation provisions in relation to the total value of the assets against which they are being accumulated. At Dec. 31, 1939, the total investment in rolling stock capital was \$303 million. By Jan. 1, 1948, the total was \$421 million. The average of those two figures is \$362 million. If that figure of \$362 million is accepted as representing the average investment during the period, then the amount to be recovered out of depreciation reserves would be \$362 million minus the estimated salvage value of the assets when they are retired. But during the years from 1940 to 1948 annual depreciation provisions averaged \$14.3 million. At that rate, the entire \$362 million would have been accumulated from the users of the service in 25.3 years. If that rate were maintained, the C.P.R. would therefore have provided excessive depreciation to the extent of anything that was recovered from the sale of salvage plus any amount accumulated if, on the average, this equipment remained in service more than 25.3 years.

(1) 30% Case, Exhibit 335 D.

It would appear that the majority of the railway rolling stock will, in fact, be in service substantially longer than that number of years. In fact, the shortest number of years of service life mentioned by the judgment in the 21% Case, were as follows:

For locomotives	35 years
For freight cars	28 years
For passenger cars	29 years

It is obvious that if present rolling stock should continue in service for that length of time, and if the depreciation provisions of the period 1940 to 1948 should be continued year by year, the amount which would be accumulated would be far in excess of the total cost of the equipment.

It should be made clear at this point that the criticism of this situation is not directed at the attempt by the railways to recover from the users of their service, the cost of the capital items which have been used up; rather, the criticism is that the annual amounts set aside in recent years have been too large in that they have been such that if they continue in effect, the users of the service will be called upon to pay the full cost of the assets and a rather substantial sum in addition. It is acknowledged that the users must pay back the cost of the equipment. The objective in criticising the present practices is to prevent the development of a situation in which the depreciation provisions return the full original cost of the equipment and provide something in addition. If one refers back to the definition of depreciation which was quoted at the outset of this section, the criticism is that the depreciation provision is not being used as a process of

allocation of the cost of the equipment, but that it is being used as a means of collecting a sum in excess of the original basic value of the capital assets. The recommendations which are to be presented hereafter are designed to ensure that this situation will not be allowed to continue in the future and to prevent the establishment of a freight rate structure in Canada which will, to some extent, be based upon charging the users of the railways an excessive amount for these purposes.

Recommendations

For the sake of clarity, it seems advisable to list our recommendations at this point and then to develop each of them in some detail. On the question of accounting provisions for plant retirement, the Manitoba Government feels that your Commission should make the following recommendations:

1. That the Railway Act should be amended in such a way that it is made clear that the authority and responsibility for setting the retirement and renewal practices to be used for rate-making, lies in the hands of the Board of Transport Commissioners and not in the hands of any interested parties, either the Railways or the users of the service.

THE CHAIRMAN: Pardon me, are we to bear in mind in this No. 1 what you said precedingly about the continuing responsibility of the Dominion Government?

- A. That is correct, yes.
2. That the Board of Transport Commissioners should have the authority and the responsibility for determining which assets are to be treated

on the basis of retiral accounting or of renewal accounting or of depreciation accounting.

THE CHAIRMAN: Again, the same rider is to be implied there?

A. That rider applies all through this entire brief.

Q. The Government is still involved. All right.

A. 3. That the Board of Transport Commissioners should undertake its own independent studies of service life of those assets which are to be handled on the basis of depreciation accounting.

4. That in dealing with those assets which are to be handled on the basis of depreciation accounting, the service life data should be calculated in terms of years rather than in terms of units of mileage or traffic volume. In other words, that the depreciation, where it is used, should be calculated on a straight line basis rather than on the present user system.

THE CHAIRMAN: Just a moment. You say here, then, that depreciation should be calculated on the straight line basis. Is that also a subject of what you have already said that the Act should provide for both to be used, the Government to direct which should be used?

A. As we visualize it, there is a distinction here between what would be put in the Act and what would be a policy decision. We do not suggest in any way that the Act should say it must be straight line. We suggest that under the present circumstances the policy decision should

be to apply straight line, but that the Act should include any such provision we are not suggesting.

Q. The Act should allow either way?

A. The only thing we are asking is that the Act require a decision by the Board and not by anybody who is an interested party on either side, as to which method is to be used for rate-making purposes.

Q. By the Board, but subject to the Government --

A. Subject to the Government always, yes.

Q. All right.

A. And then the No. 5 recommendation is:

5. That the Board of Transport Commissioners should establish the necessary administrative machinery for maintaining a continuous review of all the above decisions.

MR. SHEPARD: Q. Have you any comments to make on the next section headed, "The Board should determine policy"?

A. The Board Should Determine Policy

With respect to recommendation "1" we would point out that this is simply a restatement of the basic premise which underlies the whole submission by the Manitoba Government, namely that in all these matters the final authority and responsibility should lie in the hands of the Board of Transport Commissioners. In the past this has by no means been clear for in the 30% Case the Board was requested to order the C.P.R. to produce the information lying back of its depreciation formula, but chose to refuse that request with the result that in its decision it was only able to make arbitrary adjustments in the depreciation provisions without any sound analysis of what the proper provisions should have been.

It should be made clear immediately that there is no suggestion here that the Board of Transport Commissioners should control the internal bookkeeping arrangements of the C.P.R. What is requested is that the Board should lay down the principles to be followed in the calculations for the purpose of fixing freight rates to be charged in Canada. If, for operating purposes or for tax purposes, the Railway wishes to use some different set of records, that is a different matter with which the Board of Transport Commissioners need not concern itself. In accounting for rate-making purposes, the major issue is to keep a clear distinction between money belonging to and contributed by the owners of the corporation, and money belonging to and contributed by the users of the corporation. In its efforts to reach decisions on rate level matters, the Board of Transport Commissioners should require that these distinctions be drawn with particular clarity and particular precision in order that the users of the service will derive full credit for that part of the company's money which has been contributed by the users. If this is not done the result may be that the users of the service will be called upon to provide the capital in the first instance and will then later be called upon to provide a depreciation reserve to return to the company the cost of the assets which have been bought with that capital.

There is only one comment I would like to make there. The third line says:

" . . . namely that in all these matters the final authority and responsibility should lie in the hands of the Board of Transport Commissioners."

THE CHAIRMAN: That is always subject to this reservation?

A. Yes, that is the point I was going to draw to your attention that the word "final" --

Q. One has to be careful to read the condition because it sounds so absolute in respect of the Board, but then there is that qualification. You say that in all these matters the final authority and responsibility should lie in the hands of the Board of Transport Commissioners, but you don't really mean that?

A. No, that was the point I was going to make just now, that that word "final" should come out; and the emphasis is that as contrasted to the authority of the railways or of the users or of anybody who intervenes in a case, the authority of the Board of Transport Commissioners should be final but not in respect to any policy directives either in statute or from the Government.

MR. O'DONNELL: Are you going to delete the word "final" then?

A. Yes.

COMMISSIONER ANGUS: In the fifth of these recommendations, the continuous review, suppose that one of these matters had been decided by the Government?

A. Yes.

Q. Are you still considering that the Board of Transport Commissioners should still keep it under review?

A. Yes.

Q. In order to be in a position perhaps to advise the Government to change its decision?

A. Very definitely, yes.

MR. SHEPARD: Mr. Moffat, will you turn to the next heading which is on page 9, Chapter V?

THE CHAIRMAN: Is that right then, that you have

the Board being an advisory body for the Government?

A. I think it is inevitable, it must be in that position if you are in this situation, yes.

Q. The Board would advise the Government to direct the Board in a certain direction, is that it?

A. I think that is what happens in any Government department or any body that is working under the directions of a Government department.

MR. O'DONNELL: That would result in the Government being managers of the railway.

THE CHAIRMAN: I did not hear you, Mr. O'Donnell.

MR. O'DONNELL: That would result in the Government being managers of the railway in the final analysis.

A. Well, it depends --

COMMISSIONER INNIS: Or would it be the other way around?

MR. O'DONNELL: It might be that, too.

THE CHAIRMAN: All right, go on, Mr. Moffat.

MR. SHEPARD: Page 9, the heading, "Which Assets are to be Handled by Renewals and by Depreciation." I think you wish to deal with this section in some detail?

A. Yes, this is our heading of the second recommendation, that the Board of Transport Commissioners should decide the question as to which assets are to be handled by retiral accounting, or by renewal accounting, or by depreciation accounting. The section is a bit lengthy but we propose to read the whole thing.

Which Assets are to be Handled by
Renewals and by Depreciation

The second recommendation on this subject is that the Board of Transport Commissioners should decide

as to which assets are to be dealt with by each of the three methods: -- retiral accounting, renewal accounting or depreciation accounting.

In order to present our views on this matter, it is necessary to give a somewhat detailed description of the methods which have been followed by the C.P.R. in regard to its road assets. As has already been pointed out, road property was handled on the basis of renewal accounting from the beginning of the corporate history of the C.P.R. until July 1st, 1942. From that date to the present, part of road property has been handled on the basis of depreciation accounting and the remainder has remained on renewal. The major accounting categories upon which depreciation is not calculated, are the following: (non-depreciable road) --

- Grading
- Ties
- Rail
- Other track material
- Ballast
- Track laying and surfacing.

Those are still on the renewal method.

The road items upon which depreciation is provided, are the following: (depreciable road)

In general it is the road structures items as contrasted with the roadway items in the other group.

- Roadway machines
- Public improvements
- Tunnels and subways
- Bridges, trestles and culverts
- Fences, snowsheds and signs
- Stations and office buildings
- Roadway buildings

- Water stations
- Fuel stations
- Shops and engine houses
- Grain elevators
- Storage warehouses
- Wharves and docks
- Coal and ore wharves
- Telegraph and telephone lines
- Signals and interlockers
- Power plants
- Power transmission systems
- Miscellaneous structures.

The depreciation provided on these items in 1948 amounted to \$9,667,452. *

During the six years from 1943 to 1948, inclusive, the amount charged against the users and set aside in road property depreciation reserve, amounted to \$47.5 million. ** On the other hand, the total of all road property retired and paid for out of the road property depreciation reserve, amounted to only \$6.2 million ** There is no evidence in the rate cases to indicate that renewal accounting is not now being carried on, largely as it existed prior to the inception of depreciation accounting. If that is so, the user of 1949 is being called on to pay for heavy renewals as he did in the earlier years, charged to him through maintenance, and in addition is being called upon to provide annual amounts for retirement which may never take place. The fact that renewal accounting is being used in these assets is suggested very strongly by

* Annual Report, page 30.

** 30% Case -- Exhibit 335; 20% Case -- Exhibit 49/31; Annual Report -- page 30.

the fact that during the five year period 1943 to 1947, the total value of all depreciable road property assets which were paid for out of capital, amounted to only \$19 million. * The 1948 figure for depreciable road is not obtainable from the published accounts. If depreciation accounting had been strictly applied, this would mean that the total cost of all improvements to depreciable road property, plus replacements of depreciable road property, averaged less than \$4 million per year while during that same period the amounts being set aside in the depreciation reserve averaged \$8 million per year.

The Manitoba Government is of the view that the C.P.R. is on sound ground when it treats its different assets on two different bases for the purpose of providing for retirement or renewal. We do, however, criticize the particular division which has been made and we would express the opinion that a number of road items which are handled on the basis of depreciation accounting, should be handled on a renewal basis.

The system of renewal accounting was used by the C.P.R. for something over fifty years for all assets and for over seventy years for road property and apparently proved to be reasonably satisfactory. This was probably because the system of renewal accounting and the system of depreciation accounting will result in the same annual charge to the user of the system if two conditions exist:

1. If the replacement of assets take place at a uniform rate year by year.
2. If the price level as reflected in the cost of assets does not change.

* 30% Case -- Exhibit 335; 20% Case -- Exhibit 49/31; Annual Report -- page 30.

On the other hand, even if both these two conditions are absent the total cost to the user over the entire life of the assets, will be identical in any case. For these reasons it seems to the Manitoba Government that the decision as to which of these two systems is to be used should turn upon --

- (a) the adequacy with which the system proposed lends itself to public supervision; and
- (b) the adequacy with which it meets the problems created by change in price levels; and
- (c) the adequacy with which it meets the problems created by changes in the annual rate of replacement of capital assets.

In attempting to reach its decision as to whether a given group of assets should be handled on the basis of renewals or depreciation, the Board obviously must take into account the information which would be required if an adequate system of public supervision is to be maintained. If the system is to be that of renewals, the information required is the present cost of the replacement item. If, on the other hand, the system is to be that of depreciation, then the same information as to the cost of the replacement item is necessary and in addition, it is necessary to prepare, in advance, an estimate of the useful life of the asset in question. It is therefore, in our view, extremely important to consider whether information as to probable useful life can be secured for any group of assets before this decision is taken. It is equally important to determine whether company policy either in the form of deferring retirement or in the form of a policy of heavy maintenance, can materially change the average life of the equipment after the life estimates have been prepared.

In a substantial number if not all of the assets included in the road depreciable account, it is impossible to prepare service life estimates with sufficient accuracy to institute a depreciation accounting system without incurring a serious risk that the service life estimates will prove, in practice, to be far from the actual results. In part, this is a result of inadequacy of the data and this point will be discussed more fully in the section dealing with service life estimates. But a more serious source of error lies in the extent to which the life of road assets can be prolonged or shortened by management decisions as to maintenance.

Because of this element of doubt, in any estimates of service life, there is an element of risk both to the user and to the railway if depreciation accounting is introduced. If service life should be under-estimated, the user is called upon to provide unnecessary large reserves. If service life should be over-estimated, the railway runs the risk that it will not have adequate reserves when the assets are no longer useful. The result is that if such a system is established by the railways, the tendency inevitably will be to set cautious estimates and to make sure that reserves will be ample. On the other hand, if the system of renewals is used, the railway runs no risk that its assets will not be paid for and the user, on the other hand, runs no risk that he will be charged excessive amounts. For this reason alone, it is the view of the Manitoba Government that renewal accounting should be carefully considered in relation to all the road assets both way and structures.

THE CHAIRMAN: What do you mean by "carefully considered"?

A. Well, the thought sir, is that if this was the only consideration even it would justify a very careful consideration. Then there are a couple of other points which

developed which lead us to the conclusion that the consideration based on this question of adequacy of supervision lead to the conclusion that the recommendation should be that a substantial number of these cases should be put on to renewals.

Moreover, in the case of the change of the price level it is the view of the Manitoba Government that the renewal method provides a much more satisfactory method of handling the situation than that provided by depreciation. From the point of view of the railway it is preferable in that it will immediately be able to collect from the users of the system, the new higher cost of the replacement. (The word "in" got left out there if you are following the copy very closely). On the other hand from the point of view of the Canadian public who are the users of the service, it is our view that it is much preferable that the costs of expensive new assets purchased in periods of high prices should be paid off immediately, and should not be allowed to become the cause of continuing charges which will be levied regularly over a long period into the future when prices and the level of the business activity may be lower and the public that much less able to bear charges.

The question of the uniformity of replacement of assets still remains to be considered. If assets are replaced steadily year by year, the two systems yield approximately the same annual results. If, on the other hand, there is a tendency for replacements to become necessary in relatively large groups, then the situation is different. The record of the C.P.R. in the past indicates that additions to road structures assets form a relatively small proportion of a total investment in those assets, this is a direct reflection of a relatively long life of this type

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of asset. Consequently, any fluctuations in the yearly amount of replacements of road structures items, will be less likely to have serious consequences for railway operating expenses. For this reason we think that this particular consideration, although it tends to favour the use of depreciation accounting in theory, is of considerably less significance in the case of the road item than it is in the case of rolling stock items.

The Manitoba Government is therefore of the view that this whole question of the division of railway assets between those which are to be taken care of by renewal accounting and those which are to be taken care of by depreciation accounting should be reviewed by the Board of Transport Commissioners, and that in the interests of adequate supervision and in the interest of the final and definite disposition of the additional costs which may arise from any increase in price levels, renewal accounting should be inaugurated in all those groups of assets where the life is long and where in consequence the year by year replacement tends to be relatively steady, and tends to be a relatively small part of the total assets, or where management policy with respect to maintenance can have a material effect on lengthening or shortening life. On the other hand, depreciation accounting should be instituted for those items in which the life is short, where the annual replacements tend to occur in bunches and where there tend to be other periods when replacements are much less significant. We do not propose, at the moment, to give any specific recommendations as to which assets should be handled in each method, but it is our general view that for rolling stock items the depreciation division is more desirable, whereas, among the road items it is doubtful whether there are many cases where depreciation should be used.

MR. SHEPARD: Now, the next heading, Mr. Moffat, is "The Board Should Make Studies of Service Life" the heading itself pretty well describes what is in the section, I think?

A. That is correct.

Q. And you do not intend to read it?

A. No.

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The Board Should Make Studies of Service Life

The third recommendation, namely that the service life studies necessary for any system of depreciation should be made by the Board of Transport Commissioners rather than by the railways, follows directly from the fundamental proposition that the decisions in these matters should lie with the Board. We do not consider that it is necessary to repeat again, here, the reasons which lead us to support this proposition. We do, however, feel that this question of service life studies is of sufficient importance that it should be treated as a separate matter and that a specific recommendation on it should be included in your report.

Q. The following heading "Service Life Data Should be Calculated in Years", I understand it is not your intention to read that section?

A. No, that section gives a discussion of the possibility of securing service life data from existing records and from records which may be developed and the ~~con~~clusion is evident.

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Service Life Data Should be Calculated in Years

A further basic question in connection with this service life data is to reach a decision as to whether service life should be measured in years or in terms of mileage travelled by equipment, or tonnages hauled by the railways. In other words, the decision is as to whether the service life data is to aim at a depreciation system which allocates the cost of the asset uniformly over the number of years which the asset is likely to be in service, or whether it ^{is to} aim at a depreciation system which varies the annual depreciation provision in accordance with changes in traffic volume.

Obviously, in order to make any study of service lives, it will be necessary for the Board to secure its basic data from the railways. This point automatically raises the question as to what factual data is actually available. The C.P.R. has an accurate record of the year when each asset went into service and it is therefore possible to ascertain exactly the service

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life in years of every asset retired and of every asset now in service. Consequently, the data necessary to prepare estimates of service life in years, is available in the form of accurate records of life in years of existing assets and of old assets. The only element of estimation involved in a study of service life in years is that which attempts to relate the record of the past to the probable record of the present equipment when used under conditions which are likely to exist in the future.

On the other hand, a fully satisfactory study of the service life of assets measured in terms of miles, would require accurate records of the useful life of assets kept in terms of mileages. The C.P.R. has not produced any mileage records in any of the recent rate cases and it is doubtful whether they exist except for locomotives. With respect to road items such as snow fences, station buildings, etc., it would obviously be impossible to secure exact data relating their period of useful life of the number of miles moved by railway equipment or the number of ton miles of freight and passengers hauled by the railways.

It is our submission that the only real study of service lives which can be made is one which goes directly to the actual records which exist and that the only existing records for all classes of equipment are those measuring life in years. We would go further and say that although, in the case of rolling stock, it might be possible with a good deal of work to accumulate records in terms of mileage, in the case of depreciable road items, particularly such things as snow fences, telephone and telegraph lines, grain elevators, water stations, etc., the mere accumulation of records of tonnages or ton miles handled by the railway during the period when those items

are in use, would in no way provide information which could be considered as measuring the life of those items in terms of tonnages or ton miles.

The fourth recommendation in regard to this subject, flows naturally from the point just discussed. Since the only satisfactory service life data which is available is that which is expressed in years, it therefore follows that if the Board of Transport Commissioners is to have adequate data to test the system which is installed and is to be able to supervise the methods and application of depreciation in the future, that depreciation system must be one which is based upon service life in years. In other words, it must be one which allocates the cost of the equipment over a given number of years.

For this reason, in the Brief of Points, Item number 10 reads as follows:

"It is our view that in the interests of the public and particularly in the interests of adequate control and inspection, depreciation as used in the determination of Canadian freight rates should be calculated on a straight-line basis wherever it is allowed."

This should not be interpreted to mean that it is our view that straight-line depreciation should be used for all the assets which are now subject to depreciation accounting. As we have already pointed out, it is our view that a careful study of the assets should be made to determine whether a substantial number of them, particularly in the road category, should not be returned to the renewal system followed from the beginning of C.P.R. history until 1942. Our present submission is that once that study has been made and once it has been decided that a certain group of assets are to be handled by depreciation accounting,

then, for those assets, depreciation accounting should be on a straight-line basis.

Straight-line depreciation is, of course, different from the system which has been followed by the C.P.R. since it first introduced depreciation accounting. The C.P.R. "user" system has, as its objective, the allocation of the cost of the assets, in such a manner that the annual charge varies according to the mileage travelled by the equipment and according to the tonnage handled by the system as a whole. Such a system may have considerable merit from the point of view of corporate operations and from the point of view of business management. For such purposes we have no objection to its use, but for the purpose of the determination of the level of freight rates to be charged in Canada, it is our view that the primary requirement is that the system should be such that it is possible to secure the data necessary to prepare an adequate check as to its fairness from the point of view of the railway company and the users, and as we have already pointed out, we are of the opinion that no adequate records are available except in terms of years. We therefore feel that the present "user" system should be rejected for rate-making purposes.

Administrative Machinery

Our recommendation number 5 needs very little elaboration. It is the same recommendation which we have made in respect to all other matters dealt with, namely that the Board of Transport Commissioners should be strengthened administratively both as to its powers and as to its personnel in order that it can continuously review its decisions in the light of changed circumstances. We feel that in this particular case of the

provisions for retirement of capital assets, it is of more importance than in many of the other cases, that the Board should have a highly qualified technical staff available who would be continuously working on this field and who would therefore be familiar with the records and statistics in order that in any future rate case, the Board would have available to it, highly qualified independent technical advice and the necessary information and background upon which to reach its decision.

THE CHAIRMAN: You say "In other words, the decision is as to whether the service life data is to aim at a depreciation system which allocates the cost of the asset uniformly over the number of years which the asset is likely to be in service - ". That is straight-line?

A. That is straight-line yes.

Q. " - or whether it is to aim at a depreciation system which varies the annual depreciation provision in accordance with changes in traffic volume." That is the user?

A. Yes.

Q. What do you say about that?

A. The conclusion is that the only service life data which can be firmly relied upon, is that in terms of years and that therefore the straight-line method should be adopted.

Q. You have outlined the characteristics of both methods in the first paragraph and you finally advocate the adoption of the straight-line method. Is that right?

A. That is right, yes. The very last sentence "We therefore feel that the present 'user' system should be rejected for rate making purposes".

MR. SHEPARD: Now the next section "Administrative Machinery", a short paragraph at the end of the chapter,

have you any comment of make on that?

A. The point there is No. 5 in the recommendations, that there should be the necessary administrative machinery set up to maintain a continuous review of whatever decisions are reached.

THE CHAIRMAN: Where is that?

A. The very last section.

Q. The last paragraph?

A. Yes sir.

MR. SHEPARD: Now turning now, Mr. Moffat, to chapter 6 dealing with maintenance expenses, my understanding is that you intend to summarize the first six pages and then start to read with the paragraph "Following this discussion - " at the top of page 7. That paragraph, Mr. Chairman, is the last paragraph on page 94 of the printed statement and is where Mr. Moffat intends to read from.

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CHAPTER VI - MAINTENANCE EXPENSES

The C.P.R. Annual Report for 1948 shows expenditures for Maintenance of Way and Structures and for Maintenance of Equipment at a total of \$140.9 million. The amounts set aside in depreciation reserves were charged against these maintenance accounts. Hence the depreciation provision of \$28.5 million must be deducted to give the amounts of \$112.4 million charged to the maintenance accounts in respect to physical maintenance work performed during the year.

As in the case of the renewals, retirements and depreciation, so in the case of the amount charged in respect to physical maintenance work, this submission presents a relatively detailed analysis of the situation.

The level of maintenance chargeable for rate making was discussed at great length in the hearings on both the 30% application and the 20% application, but it is the view of the Manitoba Government that no satisfactory conclusion has yet been reached and we therefore suggest that your Commission should review the whole matter and should recommend some more adequate method of dealing with it. Among the studies which were proposed in the Manitoba brief of Points, the third study was dealt with in the following terms:

"3. One matter which formed the basis of much evidence and argument in both the 30% Case and the 20% Case, was the question of maintenance both as to the standard of maintenance which is desirable in the public interest, and also the extent to which maintenance expenses should be expected to increase with increased volume of traffic.

Considerable evidence was adduced on the extent to which operating expenses and/or maintenance

expenses had increased in other periods of increasing traffic or in other railway systems.

Very little, however, was done with respect to the extent to which such increased expenditures were essential, or desirable, in the public interest.

It is our respectful view that your Commission should undertake a study for the purpose of laying down principles to be followed in these matters in the future."

The matter of determining "the standard of maintenance which is desirable in the public interest" is in our view a vital part of the general problem of determining the standard of railway service to be provided in Canada. We have already dealt, at some length, with that matter. In this chapter we propose to discuss the methods by which one might measure the amounts spent for maintenance for the purpose of determining whether the maintenance account reflects only the normal cost of maintenance attributable to the year under review, or whether some element of improvement of capital equipment has also been included, or whether maintenance has been charged to the year under review, which properly should have been charged to an earlier or later year.

Maintenance Expenses in Recent Years

We have already stated that the 1948 expenditures of the C.P.R. in relation to physical maintenance were \$112.4 million. The comparable figures for the years since 1936 are as follows:(1)

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- (1) These figures have been calculated by subtracting from the total maintenance accounts the amounts set aside for depreciation or renewals or retirements according to which policy was applicable in the year in question. Depreciation and retiral figures are available directly from the accounts. In those years and for those assets where renewals were used, the renewal figure has been estimated as double the corresponding retiral figure. Data from Exhibit 335D, J and L; Exhibit 49/31 and Annual Report, 1948.

<u>Year</u>	<u>\$ million</u>
1936	35.9
1937	35.7
1938	31.3
1939	31.2
1940	39.4
1941	54.2
1942	64.7
1943	79.1
1944	93.4
1945	94.6
1946	88.0
1947	94.4
1948	112.4

The question at issue could be phrased thus: In 1948 the railways asked that they should be authorized to collect from freight rates in Canada, the amount of \$112.4 million to be spent for maintenance of way and structures and rolling stock. Is it "desirable and necessary in the interests of Canada as a whole" that they should be authorized to do so in the light of the fact that in the four years immediately previous to the war, they were able to maintain their way and structures and equipment for an average expenditure of \$33.5 million per year?

This record of the maintenance expenditures of the C.P.R. in the past 13 years immediately raises two questions:

1. To what extent are the increases due to increased wage rates and to higher material prices?
2. To what extent are the increases made necessary by higher traffic volume?

An answer to the first question lies in the fact that the C.P.R. has estimated that between 1939 and 1948 wage rates and material prices increased on the average by 69.4%. If one takes the 1939 maintenance figure quoted above and raises it by that percentage the result is the figure \$52.9 million. In other words the 1939 quantum of maintenance would have cost \$52.9

million if it had been paid for at the wage levels and the material prices which prevailed in 1948. But in 1948 actual expenditures for that purpose are shown as \$112.4 million. There is, therefore, an increase of \$59.5 million which must be attributed to some cause other than the increase in wages and material prices.

Traffic volume, as measured by gross ton miles of traffic moved, stood in 1948, at a level 66.5% above the 1939 level.⁽¹⁾ It is obvious that with a traffic increase of that magnitude there would inevitably be a need for a greater amount of work and of material and supplies if the railway were to be maintained at its former level. But question 2 above cannot be answered simply by saying that maintenance expenses would be higher. The question is "how much higher?" Attempts to answer that question both by provincial witnesses and counsel and by railway witnesses and counsel occupied a large proportion of the time consumed in both of the recent rate cases and in the appeal to the Dominion Cabinet.

In some cases these discussions were directed toward maintenance expenses as such. In other cases the discussions were in terms of the effect of traffic increases on total operating expenses. It does not seem appropriate to present the details of those discussions in this present submission. The conclusion reached by the Manitoba technical staff was that the level of 1947 maintenance expenditures estimated by the C.P.R. in the 30% Case represented an increase of some \$30 million⁽²⁾ above the 1939 level of maintenance even after full

(1) Exhibit 49.31 and C.P.R. Annual Report, 1948.

(2) McLean Argument -- Transcript, page 16985.

allowance had been made for increases in wages and material prices and for heavier expenses because of higher traffic volume. In regard to the 20% Application it was the conclusion of the Manitoba technical staff that the estimated increase over 1939 was sufficient to take care of increases in wages, material, prices and traffic and leave some \$21 million⁽¹⁾ which could not be accounted for in that way.

At no time did Manitoba suggest that the figures shown in the C.P.R. accounts did not accurately record the amounts actually spent. Rather the argument was that these amounts represent the 1939 standard of maintenance and something in addition and that the 1939 standard of maintenance had been sufficient to make possible an excellent rail service during the war years.

In reply the C.P.R. used two lines of argument. In the first place it contended that the proportion of operating expenses which varied with traffic was much greater than that used in the provincial calculations. In the second place it contended that whether or not the present standard of maintenance was higher than that of 1939 was irrelevant since in the opinion of railway operating officials the present standard of maintenance was lower than that which they considered proper.

The problem can thus be seen to have two aspects:

1. A factual one, to determine what additional maintenance expenditures are made necessary by a given increase in traffic;
2. A policy one, to decide whether the standard of maintenance is to be the same as or higher than or lower than some specified period in the past.

(1) McLean Argument -- Transcript, page 4407.

Discussion of Maintenance Provisions
as Discussed in 21% Judgment

In its 21% Judgment issued March 30, 1948, the Board of Transport Commissioners did not, in our view, deal adequately with this problem. The discussion of it appears on pages 28 to 31 of the printed Judgment and those same pages deal with the question of the use of deferred maintenance reserves. The following quotation gives the main content of those pages omitting the references to deferred maintenance reserves. The formula which is described as the "Yager formula" is one of the formulas used on behalf of the provinces to estimate the increase in maintenance expenses which could be attributed to increased traffic volume:

"... I would hesitate to accept the results of the application of the Yager formula as applied in this case to a period of eight years wherein traffic has increased 60 per cent between the two periods under review. The American Railway Engineering Association clearly indicates the following in discussing the Yager formula:

'It is not recommended that the following method be applied to a condition where the variation of traffic exceeds one-third above or below that of the base period.'

Had it been possible to apply the Yager formula each year from 1939 to the present time, I might have been more disposed to accept its results as applied to the Canadian Pacific or the Canadian National. But, both railways have indicated to the Board that no index of cost of materials and wages is available for each of the years between 1939 and 1947.

For purposes of analysis, I have had prepared the following table, which shows for the Canadian National and the Canadian Pacific the maintenance of

of way and structures expenses per equated track mile for the period 1939-1946, excluding the deferred maintenance charges:

Maintenance of Way and Structures

Expense per Equated Track Mile

	Canadian National (Lines in Canada) \$	Canadian Pacific Railway \$
1939	1,266	942
1940	1,384	1,047
1941	1,647	1,247
1942	1,858	1,651
1943	2,037	2,087
1944	2,409	2,472
1945	2,293	2,511
1946	2,254	2,432

The first conclusion which may be drawn from the above table is that the maintenance expense on the Canadian National, taking the year 1939 as 100.00, had increased to 178.04 in 1946, whereas the Canadian Pacific had increased from 100.00 to 258.20. The second conclusion is that whereas the Canadian National level of maintenance of way and structures expenses per equated track mile was higher than the Canadian Pacific for the years 1939 to 1942, inclusive, since that time, the Canadian Pacific has been higher than the Canadian National. Road depreciation was initiated by the Canadian Pacific on the 1st July, 1942. This factor was probably influential in increasing the maintenance expense per equated trackmile on the Canadian Pacific over and above the level of the Canadian National, and I restate hereunder the above table after eliminating the amounts charged in maintenance of way and structures

by the Canadian Pacific for depreciation on road property.

Maintenance of Way and Structures -- Canadian
Pacific Railway
Expense per equated track mile

1939	\$ 942
1940	1,047
1941	1,247
1942	1,519
1943	1,816
1944	2,173
1945	2,212
1946	2,161

It is evident that the introduction of road depreciation increased the maintenance of way expense per equated track mile by approximately \$300 per year since 1943. This influence is intensified when consideration is given to the fact that the method of depreciation used by the Canadian Pacific reflects the heavy traffic which has been offered to this Company in the last five years. Further mention will be made of the depreciation method used by the Canadian Pacific Railway.

The level of maintenance of way and structures expenses for 1947 as estimated (\$53,038,000) is an increase of five per cent over 1946, or in dollars the increase is roughly \$2,500,000.

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Because of decreasing net earnings caused by the increase in prices of material and labour, instructions were issued by the management of Canadian Pacific Railway Company, in the first part of 1947, to drastically curtail the maintenance program of the company in connection with the maintenance of way. By June 1, 1947, traffic had shown somewhat of

an increase in comparison with the similar period in 1946, and the curtailed maintenance of way appropriations were then somewhat liberalized. But, as Mr. N. R. Crump, Vice-President and General Manager of Eastern Lines of the Company, states it was not possible to do all the work that they would have liked due to shortage of labour, and he says:- ' . . . due to the curtailment in the first half of the year and the manpower shortage, which persisted throughout the year the maintenance program for the Canadian Pacific is and will be less for the year 1947 than I consider to be a proper standard'. (Record, Vol. 780, page 15238).

It may be mentioned that Canadian National Railways have performed the maintenance necessary for the traffic level in 1947, and also were able to draw upon the deferred maintenance reserve to pick up some of the maintenance postponed from other years.

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As to maintenance of equipment, the same arguments were advanced by the respondents as to the level of this item of expense for the year 1947. The estimated total for the Canadian Pacific is \$61,727,000, or 4.27 per cent above 1946. The Canadian National, on the other hand, estimates an amount of \$71,822,000, or 11.26 per cent above 1946. It should be mentioned that the amount of \$71,822,000 is after crediting maintenance of equipment with \$7,500,000 taken from the deferred maintenance reserve. The Canadian Pacific, however, as previously mentioned, has not as yet drawn upon the deferred maintenance reserve.

I set out hereunder a table showing the total amount spent by the Canadian National Railways and

the Canadian Pacific Railway Company for repairs alone for the years 1939 to 1946 inclusive:

Equipment Repairs

	Canadian National \$	Canadian Pacific \$
1939	27,158,000	19,176,000
1940	29,149,000	21,077,000
1941	33,123,000	26,116,000
1942	37,243,000	29,049,000
1943	40,289,000	32,617,000
1944	46,543,000	38,510,000
1945	46,189,000	39,624,000
1946	49,499,000	39,339,000

"It will be noted that if the credit from deferred maintenance reserve of \$6,000,000 in 1946 had not been used by the Canadian National, its level of equipment repairs would have been \$55,500,000, or approximately double the 1939 level, whereas the Canadian Pacific, without any credit from deferred maintenance reserve reached the same relative 100 per cent increase in 1946 over the year 1939."

MR. SHEPARD: Would you proceed please, Mr. Moffat?

A. On the second page of this chapter, there is a table giving C.P.R. maintenance expenses from 1936 to the present to give some perspective as to what has been happening to them and as to the size of the items that are involved. The significant point is the tremendous increase year by year in the period with the result that by 1948 the maintenance expenses amounted to \$112,000,000 compared with something under \$35,000,000 in the pre-war years.

COMMISSIONER ANGUS: Do the expenses for the earlier years

include what is called "Deferred Maintenance"?

A. No, I do not believe there were any deferred maintenance charges in any of those earlier years. There were some in 1947, I think. I can't answer that precisely sir. We can get it for you or may ^{be} some of the C.P.R. people could answer it.

MR. EVANS: I am afraid I did not hear that.

A. The Commissioner asked whether this table included any deferred maintenance charges, but as I recall it, it was only 1947, but I am not sure.

Q. Well, there were charges for deferred maintenance in some of those years but whether these particular figures include them or not I do not know.

A. Well, those particular figures, the footnote goes on there "The total of roadway maintenance and rolling stock maintenance less the depreciation or retirements items".

COMMISSIONER ANGUS: The point of my question is, if in any of those years there were deferred charges which were in addition to these figures, the increase would not be as great as it appears to be from these figures?

A. That is correct.

Q. Can you clear that up?

A. I can perhaps clear it up; we cannot give you the answer right now.

MR. SHEPARD: We will give you the answer after lunch, Dr. Angus.

MR. EVANS: I can give you this now. I have just been informed that in the years 1941 to 1945 inclusive, there are amounts in those figures for current charges for maintenance not then done but deferred.

A. That is 1941 to 1945, is it?

MR. McLEAN: \$28.5 million I think.

MR. EVANS: I don't think there was that much.

MR. SHEPARD: Will you continue, Mr. Moffat please?

A. Well, the brief then continues to point out that the question that automatically arises in connection with this is first "To what extent are these increases due to increased wage rates and higher material prices for materials used in the maintenance work?" And secondly: "To what extent are the increases made necessary by higher traffic volume?" There was a long discussion of those points in both the 30% Case and the 20% Case. The conclusion reached by the Manitoba technical staff was that the level of the 1947 maintenance expenditures (this was in the 30% case) estimated by the C.P.R., represented an increase of some \$30,000,000 above the 1939 level of the maintenance even if full allowance had been made for increases in wages and materials and for heavier expenses because of higher traffic volume.

In regard to the 20% application, it was the conclusion of the Manitoba technical staff that the estimated increase over 1939 was sufficient to take care of increases in wages, materials prices, and traffic and leave some \$21,000,000 which could not be accounted for in that way. In reply the Canadian Pacific Railway used two lines of argument. In the first place it contended that the proportion of operating expenses which varied with the traffic was much greater than that used in provincial calculations. In the second place, it contended that whether or not the present standard of maintenance was higher than ^{that} of 1939 was irrelevant anyway, since in the view of railway operation officials the present standard of maintenance was lower than that which they considered proper.

We then state in the middle of page 4 of this chapter our opinion that the problems could be settled in this way, and that there are two aspects of it - (1) an effectual

attempt to determine what additional maintenance expenditures are made necessary by a given increase in practice and a policy one, to decide whether the standard of maintenance is to be the same as or higher than or lower than some specified period in the past.

THE CHAIRMAN: You call that a policy problem or a policy aspect of the problem?

A. Yes.

Q. "To decide whether the standard of maintenance is to be the same as or higher than or lower than - ". Now who is to decide that?

A. Well, our proposal is that the Board of Transport Commissioners should have the authority to say that if a given standard of service cannot be provided at the existing level of rates and if there is an application for an increase in rates, then the Board should have the right to say; "That standard of service is not one which is necessary to be provided in this country. We will not give a rate increase or back it."

Q. Has the Board that power now?

A. Well, again I am not too sure, although there is some indication. In the last judgment, the 8% Case, there is some reference to that question which seems to indicate that the present Board thinks they have but I see Mr. Shepard has the reference.

MR. SHEPARD: It is a reference, Mr. Chairman, to page 11 of the printed form and this dealt with maintenance costs and deferred maintenance and the Chief Commissioner in his judgment says this:"

"On the hearing of this application the applicants restated and brought up to date their evidence and exhibits with reference to maintenance costs. I think that these maintenance costs will require

further study before any decision can be given, even assuming that the requirements of the Canadian Pacific Railway are to be accepted as the yardstick for a further increase in freight rates".

So the Board is apparently giving further study to the matter, but this judgment does not assist in answering your question too much which, if I understood it right, was "Has the Board power to make policies with regard to this subject?"

MR. EVANS: I would have thought that what the Board was referring to there was not the standard of maintenance but the question of whether it is excessive or not.

MR. SHEPARD: That is what we consider to be the standard.

COMMISSIONER ANGUS: If a rate case comes up, are you contemplating that the Board could give a directive as to what should be done in the next few years on the point of maintenance, or that it should disallow something that had been done in the past in the way of maintenance?

A. Neither one sir, but they could say: "We think that in the interests of the country, freight rates should not go above a certain level", and if the railways cannot maintain this standard of service with that amount of revenue, then the railways will have to worry about it. They would be saying: "Freight rates will not be increased in order to provide a certain standard of service", but no directives as to what the railway should do about the standard of maintenance, but it would not be passed, any form of higher freight rate, unless the Board approves.

Q. And that would really affect the future rather than the past?

A. Or it might be that the railways by one form or another of improvement financially and that sort of thing, could go ahead and get their standard up at the existing level of freight rates, but the thing we are afraid of is having this Board put in the position of automatically being faced with a certain programme of maintenance and improvements and then being told: "This is what this is going to cost", checking the cost, finishing their investigation, deciding it is going to cost a certain amount, and raising the freight rates accordingly.

THE CHAIRMAN: Is the Board in that position today?

A. That is a question we are not too sure of. There has been some evidence of it. We go on immediately then to quote the decision in the 30% Case on the question of maintenance and certainly in that case they accepted the railways figures, and the railways estimates.

MR. O'DONNELL: After checking them.

A. As to the extent of the checking, that is something we are not able to know.

THE CHAIRMAN: I did not understand that.

MR. O'DONNELL: After checking them and following considerable argument as to whether they were proper or correct for days on end.

THE CHAIRMAN: Do you mean, Mr. O'Donnell, that the Board is not compelled to adopt these figures?

MR. O'DONNELL: That is my view, my lord. The Board have a right to increase those figures and my friend criticizes them for doing so. The Board has the right to go into those figures.

MR. McLEAN: The Governor-in-Council asked for a review.

THE CHAIRMAN: You say later on: "They failed to deal adequately with the problem"?

A. There is a lengthy quotation in there. In the printed copy unfortunately it does not all appear in italics. It is a much longer quotation than appears if you simply look at the italics in the printed copy.

MR. SHEPARD: I might clear that up Mr. Chairman. The quotation in the printed copy starts on page 92 about the middle of the page with the actual quotation and then it unquotes after two paragraphs. Actually the quotation should carry through the whole of 92, 93 and down to the last paragraph of 94 beginning: "Following this discussion of the question of maintenance charges - "

THE CHAIRMAN: All this is really quoted?

MR. SHEPARD: It is all quotation.

THE CHAIRMAN: It is a misprint?

MR. SHEPARD: Yes.

THE CHAIRMAN: Yes, I notice because it says "I might be wrong - "

MR. SHEPARD: It is from the majority judgment in the 30% Case.

THE CHAIRMAN: It goes right down to the bottom of page 94 excepting the last paragraph?

MR. SHEPARD: Yes sir. Will you continue Mr. Moffat, please?

A. Beginning to read again just at the conclusion of that lengthy quotation - Following this discussion of the question of maintenance charges the Judgment turns to the question of depreciation and at the conclusion of the depreciation discussion it presents an "Estimate of Railway Operating Income". In that calculation the maintenance expense estimates as presented by the C.P.R. were accepted exactly as presented. The only adjustment which in any way related to this question was the disallowance of an amount which was charged by the C.P.R. to the maintenance

accounts and credited to deferred maintenance reserve in the closing months of 1947. In regard to the amounts charged as expenditures for physical maintenance, the Board accepted railway figures with no indication of any study beyond that outlined in the above quotations.

In the view of the Manitoba Government that is not satisfactory. On an issue of such vital importance, the Board should not reject a yardstick simply because " Both railways have indicated to the Board that no index of cost of materials and wages is available for each of the years between 1939 and 1947." (That is the end of the quotation from the Judgment). The basic data is in the records of the companies and we are informed that it would be a relatively simple statistical problem to prepare such indexes if that data were available. In fact, in the 20% case both railways were able to construct and present such indexes for 1946, 1947 and 1948. Obviously the Board should secure whatever data it considers necessary to a decision on any point and particularly on a point of this magnitude.

Suggested Studies by Commission on Maintenance Practices.

Our major submission on this question of maintenance expenditures is more fundamental however. It is the view of the Manitoba Government that your Commission should undertake studies to deal with both the factual and the policy making aspect of this matter.

THE CHAIRMAN: What do you imply there?

A. This is a request that your Commission should study -

Q. You are devoting us to a studious life, I think.

A. This is the first time that there has been an item mentioned in here in which we have requested a study by the Commission. That particular study was requested and the list of studies was presented by the province sometime early

last spring. I cannot quote the exact date of the letter.

It is our view that these studies should be approached from the viewpoint of an attempt to discover what maintenance expenditures are "Desirable and necessary in the interests of Canada as a whole," and should not be confined to an historical analysis of what the railways have done in the past in following out the practice of providing large sums for maintenance in years of good revenue, and reducing maintenance materially in years when revenue is smaller. In our view a study of fluctuations in maintenance costs from one year to the next, or from year to year over a period, is likely to reflect the fact that railway management in the exercise of its proper ^{managerial} functions causes maintenance expenditures to be related quite closely to fluctuations in railway revenue and therefore to fluctuations in railway traffic. It is therefore our view that attention should be directed to the experience over a number of years with a view to deciding whether the standard of maintenance in effect during that period is such that it offers a satisfactory railway service to the people of Canada. Once such a study has been made, attention should be directed to the preparation of methods for estimating the nature and amount of any additional maintenance which may be necessary because of changes in the volume or character of railway traffic, or which may be desirable in an effort to improve the standard of railway service available in Canada.

Such a study would obviously not be limited to overall totals of the type which formed the basis for much of the discussion in the rates cases, nor would it be directed to dollar cost experience only. Attention would have to be directed to specific aspects of maintenance and to both

engineering and cost experience in those specific items. In other words the studies would require the combined efforts of persons well qualified by training and experience in the engineering of railway construction and maintenance, and of persons equally qualified in accounting and financial matters. Our technical staff has not succeeded in developing a completely satisfactory basis for such a study, but it seems clear that in addition to the type of analysis presented above the factual study would require a considerable amount of engineering data and physical data. Consideration would have to be given to such things as engineering appraisals of the condition of the road, records of the number of ties laid, records of the number of pounds of new and re-lay rail placed, etc. In addition a study of major rebuilding projects would be involved for the purpose of determining the proportion of their cost which should be charged to current maintenance and the proportion which should be capitalized. The experience of other railway companies' operations in somewhat similar circumstances, would have to be studied as well. The policy study would involve a consideration of the results of the factual study in the light of factors of the type which have been discussed in the section headed "The Standard of Transportation Service".

COMMISSIONER INNIS: You have made no estimate of what that would cost?

A. No, we have not, except in these items that show that what is involved here is something in the nature of \$20,000,000 to \$25,000,000 a year. That is the difference between the railways' submission and ours. Now, how much it would cost to get a proper study of what the answer should be, I don't know.

COMMISSIONER ANGUS: Have you made any estimate of the time involved?

A. No, it would be very considerable, I agree.

Q. What was called yesterday "An in terrorem argument"?

A. Yes sir.

MR. SHEPARD: Turning now to Chapter VII, Mr. Moffat, if there are no further questions from the Commission on that I think, Mr. Chairman, I might first read another paragraph from the foreword of the printed copy which summarizes in about two sentences the intent of chapter VII. It is on page 7 of the foreword and it reads:

"Chapter VII deals with the financial position of the Company and the methods of paying for improvements in railway facilities. The contention is that in these matters the primary objective should be to secure the money to pay for improvements at the least possible cost to those who must pay for the service, and that consequently, it may be necessary to consider the advisability of inaugurating certain practices which are not available to private corporations generally."

THE CHAIRMAN: That is not in the printed copy?

MR. SHEPARD: It is on page 7 of the printed copy in the foreword.

THE CHAIRMAN: Yes, I have it now.

MR. SHEPARD: Now, Mr. Moffat, I understand that it is your intention to read this Chapter which is relatively brief. Have you any comments to make on the first part before you start to read?

A. The only point that is made in the Estimating Revenue Section is essentially the same point made at

several other places through the brief, that on these things, it is essential that the administrative board make its own estimates and not depend on estimates presented by any interested party on either side, and there is the example presented there of what happened in the case of the revenue estimates in the 30% Case.

I might go back just briefly to relate this to the preceding section. The organization of the brief has been to say that there should be a study of expenses and to deal with two or three particular points within "expenses", then to give this very brief note on revenue and to suggest that the Board should then look at the expenditures which it finds to be necessary and the revenue which is in prospect and to see what the net revenue position looks like.

Chapter VII

Financial Position of the Company

We have already stated at some length, our view that the people of Canada must either through rates or some other means, pay the cost of providing Canada with railway service. It follows therefore that once the Board of Transport Commissioners has reached its decision on the various operating cost items, the next step is to calculate the total prospective revenue which it foresees for the railway company and to discover whether there will be sufficient revenue to cover operating costs and leave some net revenue available for the use of the corporation.

Estimating Revenue

Our view with respect to the preparation of estimates of revenue can be stated very simply. It is that the Board should prepare that estimate from the best data which is available to it from the railways and from other sources. One of the important elements in the preparation

of such a revenue estimate is the forming of judgments as to the probable volume of traffic which will be available to the railways from the various industries. It therefore seems to us that in preparing revenue estimates it will be found that many non-railway sources such as trade associations, the Dominion Bureau of Statistics, the Department of Trade and Commerce, certain crop forecasting organizations, etc., will provide information which is more pertinent than that from railway sources. In this connection we need merely point out that in the 30% Case C.P.R. witnesses estimated that 1947 railway operating revenues would be \$7 million less than in 1946. The figure estimated for 1947 was \$285.4 million. The actual result, however, was not a decrease of \$7 million; rather it was an increase of over \$26 million to a 1947 operating revenue of \$318.6 million. In other words C.P.R. witnesses underestimated C.P.R. revenue by \$33.2 million or by more than 11.6%. On the other hand the provincial estimate of \$317 million was within one-half of one percent of the actual figure.

Net Revenue

Any decision as to the amount of net revenue to be made available to the Company in excess of current operating expenses and any related question of return to the owners of the company, involve considerations of extreme complexity. In our view these considerations are so closely related to the conditions which exist at the time -

THE CHAIRMAN: You think those interests would coincide on all occasions?

A. No, not necessarily at all, sir. In the great majority of cases I would think the difference between them would not be too great but the Board will be in the

position of a referee in some cases. There is no question of that.

COMMISSIONER ANGUS: Just in a general way are you contemplating frequent reviews and small changes or relatively infrequent reviews of freight rates and changes of the order of 20% or 25%?

A. Relatively infrequent, I would say, unless we continue to take the period as we have had in the last three or four years when price levels and the whole standard of economic activity in the world has been affecting us very, very rapidly.

THE CHAIRMAN: Will somebody tell us how many times the freight rate structure has been reviewed by the Board since its inception?

MR. EVANS: There was the first general review of freight rates in 1914 to 1916. That was the Western Rates Case. There were, of course, a number of other decisions prior to that, the International Rates Case, the Pacific Coast Cities Case, The first general review of structure related to half of Canada and was the Western Rates Case, 1914, 1916, and then in 1916, I think, there was the Eastern Rates Case which reviewed in respect of the East that which had been reviewed in respect of the west in the prior case. Then the process of review was, I should say, more or less continuous between 1917 when the first increase in rates was applied up until -

THE CHAIRMAN: 1917 was the year of the first application for an increase in freight rates?

MR. EVANS: Yes sir.

MR. O'DONNELL: 15%.

MR. EVANS: As a result of that increase and one .1

that took place in 1918, many of these same questions as to the level of rates east and west began to receive some prominence and after the increase was awarded in 1920 the Board began a series of hearings which culminated in the restoration of the lower rates but there were considerations of a more or less general nature in these cases.

(Page 8650 follows)

In between that period and 1925 there were also a large number of cases, but the next general investigation into the structure was in 1925. The investigation then lasted about two years. But substantially, I was going to suggest to you, sir, that there was an almost continuous review of this structure, beginning about 1914 and ending in 1927. There was a rash---

THE CHAIRMAN: Then after 1927 what occurred?

MR EVANS: There has been no general review since that time. There have been a large number of individual cases, of course.

THE CHAIRMAN: Up to these last cases.

MR EVANS: No, sir, no general review.

MR McLEAN: I think that is an under-statement. There has been no review of other than individual rates since 1927.

MR EVANS: I did not mean to convey anything else. There have been a number of individual cases, but no general review.

THE CHAIRMAN: Q. Now, you were saying, Mr. Moffat -- would you please repeat what you were saying?

A. The point was, with regard to the question of the net revenue it seemed advisable---

Q. You said:

"In our view these considerations are so closely related to the conditions which exist at the time when the decisions are being taken, that they should be assessed anew each time the Board reviews the level of freight rates."

A. That is correct; although from the review that Mr. Evans just gave, you will notice that there are two periods in which there was what you might call a rash of these investigations. It was at the end of the last war

and at the end of this war. They related to the period when you have a fairly rapid change in price levels and in wage levels and all that goes with it, and a period of inactivity in between.

MR O'DONNELL: I think it might be well, my lord, to draw the attention of the Commission to this: on my understanding at least, the Board of Transport Commissioners has a continuing review and continuing control of these matters, and even in this 20% case the Commissioners will see at page 68 there appears the following proviso:

"The railway companies subject to the jurisdiction of the Board will be required to continue to furnish to the Board monthly statements of their operating revenues, operating expenses and operating income and should the Board, at any time, be of opinion that a greater amount of money is being paid to the railway companies than is actually necessary to enable them to maintain a reasonable degree of operating efficiency, the Board reserves the right, at any time, on notice, to readjust the rates to meet the conditions then existing. On the other hand, should the amount of advance in rates authorized prove to be insufficient, the railways can always apply again. The Board will remain seized of these proceedings."

Detailed monthly reports are made, and have been made, as I understand it, right through the years, even from 1920, when that similar provision was put in the judgment according the 40% increase.

COMMISSIONER ANGUS: Q. Mr. Moffat, do I understand that the Board has made tentative arrange-

ments, and that your recommendation is contemplating what would happen in the case of more or less hard and fast arrangements intended to last for some time?

A. I am afraid I do not quite see what you are driving at, sir.

Q. I understood Mr. O'Donnell's remarks as meaning that the present arrangement regarding the level of freight rates was subject to continuous review, to be rectified if it were either too high or too low, that it was a tentative arrangement to see how it worked, and I am asking if the sentence that we have just read, about assessing anew the probable earnings of the railway each time the Board reviews the level of freight rates, is contemplating reviews by the Board at more infrequent intervals, that a more or less hard and fast decision is hoped or expected to last for some time?

A. No, I do not think so, sir. I think the first point I would like to mention is that this arrangement that Mr. O'Donnell has mentioned is to some extent a paper arrangement. They have the information coming in---

MR O'DONNELL: It goes in regularly every month.

THE WITNESS: It comes in every month, but nothing has been done under it except the cases that Mr. Evans mentions.

MR EVANS: Yes; the only other---

THE WITNESS: So that you have this long period when nothing was done, although the paper was coming in, and they were looking over and reviewing the information.

THE CHAIRMAN: You are not agreeing on the meaning of the word "review", I think.

MR EVANS: I do not think there should be any misunderstanding of this, that at the culmination of the increases that took place after the last war the Board of

its own motion in two successive years made reductions in rates under that same continuous review. Now the suggestion, I suppose, is that somehow they have failed to do it this time, but there is no evidence of that at all.

THE WITNESS: No, there was no suggestion intended in this to that effect.

THE CHAIRMAN: Q. Well, for instance, there is an Order in Council extant now directing the Board to equalize freight rates in Canada.

A. Yes.

Q. Do you think that this should be a guidance to the Board, what you say here under the words "Net Revenue", in carrying out that task?

A. If in making that review they come to the conclusion that rates should be changed in various areas, it certainly will be incumbent on them to come to some conclusion as to whether the amount of money that will be available from the new rates will be sufficient to cover operating expenses, and what they consider to be a satisfactory net revenue, which means they will have to reach some decision as to what is a satisfactory net revenue at the time, yes.

Q. Now they are directed to equalize, and you say that "its decision should be based on the best interests both of the people of Canada and of the railways"?

A. Yes.

Q. And they would not necessarily be coincident; there may be a difference between them?

A. Yes, there may be a difference on occasion, and in a good many cases they will probably be the same.

Q. Yes, but the Act says that there must be equality of treatment among shippers and localities and so forth?

A. There are two different problems there. There is

the question of equality between areas which can be put in, and quite a separate problem of what level the equality is going to be established at. You could equalize east and west ten per cent lower or ten per cent higher. You have got two separate problems. You can bring about equality per se without too much regard to net revenue, but that inevitably puts you into the question of how much revenue the railways are going to get from their resulting rates, which then throws you into net revenue; but the only directive that is before the Board as far as this general investigation is concerned is equality between regions.

MR EVANS: Oh, no. The Order in Council makes it quite clear that it is to be a general investigation.

THE CHAIRMAN: I beg your pardon?

MR EVANS: The Order in Council makes it quite clear that there is to be a general investigation of the freight rates structure.

THE CHAIRMAN: But you must take it as it is; it is a direction to the Board to establish equalization of freight rates.

MR EVANS: That is one thing.

THE CHAIRMAN: That is the thing. Of course, the Board will do its own interpreting of the Order, but I am just saying that. You see, whatever the Board does is with a view to the establishment of a fair and reasonable rates structure which will, under substantially similar circumstances and conditions, be equal in its application to all persons and localities. That is what section 314 calls for, is it not?

MR EVANS: That is true; but my submission would be, sir, that all branches of the rates structure are involved in that, and not merely equalization.

THE CHAIRMAN: That is for the Board itself to determine.

MR EVANS: Quite so.

THE CHAIRMAN: I am just saying what the Order in Council---

MR O'DONNELL: It goes on, too, my lord.

THE CHAIRMAN: The result that the Government wish as expressed in this Order in Council is the equalization of freight rates.

MR EVANS: That is one of the things---

THE CHAIRMAN: That is the result, I say.

MR EVANS: I say further, sir, with respect, for example, when you come to look at P.C. 4678, which was the Order in Council issued in the fall of 1948, after the appeal, there is a reference to a complaint with regard to horizontal increases, and that Order in Council goes on to point out that the matter of horizontal increases has already been made the subject of a reference to the Board under 1487, which is the Order in Council we are now discussing; so that my submission will be that, although---

THE CHAIRMAN: I suppose in arriving at an equalization of rates the matter of a horizontal increase or a horizontal decrease would naturally come up, would it not?

MR EVANS: Well, as long as we understand each other.

THE CHAIRMAN: Whatever other factor is necessary to bring about the result of equality. I am not here to define what that includes; what I am concerned with now is this, that the direction to the Board is to establish the equalization of rates.

MR O'DONNELL: So as to permit, my lord -- then the Order goes on, "so as to permit the freest possible

interchange", and those other words.

THE CHAIRMAN: I know, that is the hope. Apparently the expectation is that when you have perfect equalization of rates among shippers and localities, then you will have what the rest of the Order in Council goes on to say, a condition of perfection.

Where is that reference, Mr. Evans?

MR EVANS: P.C. 4678.

THE CHAIRMAN: Order in Council 4678?

MR EVANS: Yes.

MR O'DONNELL: The second page.

MR EVANS: I could read the section if you like, sir. You will recall that that Order in Council first lists the grounds of complaint set forth in the petition of the provinces, and in the second paragraph following that recital there is this observation:

"The Committee observe that one of the representations made by the petitioning governments is that a horizontal or flat percentage increase of 21% in all freight rates disregards and accentuates existing disparities in the freight rate structure, and that this had already been the subject of a direction to the Board, as set out in Order in Council P. C. 1487 of April 7, 1948, in which the Board was directed to make a thorough investigation of the rates structure of railways and railway companies which are under the jurisdiction of Parliament with a view to the establishment of a fair and reasonable rates structure which will, under substantially similar circumstances and conditions, be equal in its application to all persons and localities, subject to such special statutory provisions as affect freight rates."

THE CHAIRMAN: That is what I say; it is an in-

vestigation which is to result in an equalization of freight rates between localities and persons. That is right, isn't it?

MR EVANS: I would not like to get at cross purposes with you, sir. Perhaps you and I mean the same thing, but my suggestion is that the words used refer to the discrimination section; that is to say, you never get equality perfectly until you get equality of circumstances and conditions, and I am merely saying that what in essence is to be investigated under that Order in Council is the reasonableness of the rates structure, and the question of equality is only one element that is involved.

THE CHAIRMAN: Well, it is a very important one, because---

MR EVANS: Oh, quite.

THE CHAIRMAN: The direction to the Board is, "You must bring us back a structure which will be equal in its application to all persons and localities, subject to such special statutory provisions as affect freight rates." I suppose that excludes consideration of some of the things that we have been asked to deal with, like the Crows Nest Pass statute; is that right?

MR EVANS: That is my view, yes.

THE CHAIRMAN: But I say that what the Board is directed to do is to produce a structure which will be equal in its application to all persons and localities, subject to these statutory provisions.

MR EVANS: Yes, subject to the similarity of the circumstances.

THE CHAIRMAN: I think all this arose out of asking Mr. Moffat whether he thinks that in erecting such a structure of equality between localities and persons the considerations outlined in his brief are those that

should guide the Board.

THE WITNESS: And I think the answer I tried to give a few minutes ago was that they would probably not arise in respect of the actual carrying out of the Order itself, but that the Board would necessarily then have to consider the amount of revenue which was going to be available from the new rates structure which it would direct, and that in considering that it would have to take account of what the expenditures were, and then would become involved in these considerations.

MR SHEPARD: Q. Mr. Moffat, I think you had got down to the heading "Financing Improvements"?

A. No, not quite. I do not know whether it matters for the record, but I think we were two sentences before that.

Q. Well, will you start to read where you left off?

A. At each such review its decision should be based on the best interests both of the people of Canada and of the railways at that time. For that purpose it would be necessary to take a great variety of factors into account, but we feel very strongly that no figure or mathematical formula should be established and rigidly applied in these matters. For this reason we do not deal with this subject in any further detail in this brief.

Q. Then the heading "Financing Improvements".

A. There is, however, one important subject which is related to the above question, upon which we feel that discussions at the present time would be fruitful. This is the question of the arrangements which are to be made for financing future improvements in the Canadian railway system.

The problem with which this section is concerned is that of the provision of funds to be used in paying for

improvements to the railway system. It is not the intention to discuss here the methods by which the legitimacy or advisability of such expenditures should be tested. That matter has been dealt with in the section on the adequacy of the transportation service. The assumption here is simply that an expenditure for the purpose of improving the physical plant of the C.P.R. is desirable and acceptable to all concerned and that the problem is one of deciding what method shall be used to supply the necessary funds. In view of the fact that such expenditures are, in the final analysis, borne by the freight payers of the country, they have a natural interest in ensuring that the burden be as small as possible.

Q. Then the next section outlines the methods available to corporations generally, and I think you intended to deal with that in detail.

A. Yes. This section is simply a review of the methods which are available. It contains nothing particularly new, except that it seemed to us imperative that in looking at this question we should have gathered together all the various methods which are available. Then towards the end of the chapter there are a few paragraphs devoted to some possible alternatives which might have to be considered if these methods will not be sufficient to finance the improvement programme that is being undertaken.

METHODS AVAILABLE TO CORPORATIONS GENERALLY

At least three methods of providing for the financing of improvements are available to the railway through channels which are open to corporations generally:

- (a) the sale of securities on the capital market.
- (b) the pledging of specific assets as security for the money necessary to finance their acquisition;
- (c) the application of accumulated surplus;

The adoption of renewal accounting would achieve a similar result because while renewal accounting does not provide funds for new capital expenditure, nevertheless, in times of rising capital costs it does have the effect of reducing the capital monies required. A simple illustration will suffice to explain what we mean.

Suppose that the railway needed two new stations, one to replace an old station due for retirement and one for expansion. Also suppose that the old station had cost \$1 million and that the new stations which are comparable physically, will cost \$2 million each. Under renewal accounting the new cost of the replacement for the old station (\$2 million) is chargeable to current operations (i.e. the user) immediately and the remaining \$2 million for the new station must be financed by the corporation. Under depreciation accounting, however, the corporation must bear not only the cost of the new station but the additional cost of the replacement for the old station, or \$3 million.

As a result a change of certain road items from depreciation accounting to renewal accounting as suggested in Chapter IV, would reduce accordingly the amount of money needed by the C.P.R. for capital purposes and would consequently assist in the financing of its improvements.

Once again the fundamental criterion to be applied in deciding as to which course should be adopted, must be that of securing the objective in mind with the least possible cost to the users of the service, and the least possible cost and inconvenience to the company. It is therefore our view that all four of the above methods and any other methods which may be possible, should be used to the extent that they can contribute to that objective.

The traditional method of raising capital and the method which has been used most extensively by the C.P.R. is

that of the sale of securities on the capital market. This method has the great advantage that it clearly distinguishes the amounts secured in that way from the amounts secured from the users of the service. This is of great assistance to the Board in its efforts to establish a line of demarcation between money contributed by the owners of the corporation and money contributed by the users of the service. This method has the further advantage that it does not call upon the users of the service to meet any costs arising out of the financing until after the equipment is in use.

But there are certain undesirable features involved in the sale of securities in the capital market, especially if viewed with a concern for the freight payers' interests. These features are partly the result of developments in the transportation industry and partly the result of the nature of the capital market itself. The investing public no longer considers the field of railway bonds and stocks as attractive an investment opportunity as it once did. Rightly or wrongly, it appears that for reasons such as the encroachment on the position of the railways by other carriers, the slowing down of the extensive development of this continent, the frequent bankruptcies of railway companies in the U.S., and perhaps for other reasons as well, the public's appraisal of the future of railways is not too bright. The result is that a greater inducement is necessary to attract funds to the railway field.

In addition, the unsteady and sometimes erratic movements of security prices over the last few decades has had the effect of making it very dangerous to depend upon the ability of the railway company to secure a favorable market for its securities at the particular time when it may require funds for capital purposes. It is for this reason that we

suggest that although this form of financing should be used wherever it is practicable, nevertheless some arrangement should be provided whereby the company and the users of the service will be protected against the high cost which would be incurred if relatively large sums should have to be raised at a time when the capital market is particularly unfavourable.

And there is a note in there, "(i.e. high interest rates)", which should have been taken out. Somebody has added it in as an example in the drafting.

The reference there to "some arrangement should be provided" is to the remainder of this chapter, which gives some other possible things to which we would like to draw attention.

The second possible method of meeting the cost of improvements is that of issuing securities, backed by the pledging of a specific asset. This method has been used quite extensively by the C.P.R. in the form of equipment trust certificates under which a given piece of rolling stock is pledged to the creditor at the time it is constructed. The certificates are then redeemed on a serial basis. This method is, in our view, quite sound and should be used to the greatest extent possible, particularly in respect to assets which offer good security when pledged in that way, namely in the case of moveable assets of the rolling stock type.

It is obvious, of course, that this type of financing could not be used for all equipment, and that it must merely form part of an overall plan which also involves long-term bonds and other sources of capital. Nevertheless, it is our view that equipment trust certificates should be used wherever they can be depended upon to provide funds at carrying charges which are lower than would otherwise be

required. In this connection it should be pointed out that in the 1948 Annual Report of the C.P.R., there are seven equipment trust series listed, amounting in total to about \$78 million and that the interest rates vary from 3% to as low as $1\frac{1}{2}\%$.

The third possible method of providing for the financing of future improvements is that of using accumulated surplus for that purpose. This method found favour with the Board of Transport Commissioners in its 21st Judgment, for in discussing the need for something over and above fixed charges and dividends the Judgment has this to say:

"I think that a railway is entitled to a reasonable surplus over and above fixed charges and dividends. A railway company, . . . should have something in addition to 'come and go on,' to provide for contingencies and to help equalize the result of poor years with good years. And to have something, if necessity arises, to put back into its railway operation undertaking for the improvement of the services which it is required to furnish."

The Board then went on to point out that it considered the use of surplus money in this way, to be apart from "major capital requirements."

There are two basic objections to the use of accumulated surplus for the financing of future railway improvements. In the first place income transferred to surplus account has been subject to income tax. Consequently, if the railways are to have a certain sum made available to them in that way it is obvious the amount which the user must pay will have to cover that sum plus the amount of those taxes. That additional sum for income tax is, at present tax rates, somewhat more than 50%

of the amount made available to the railways. The result is that if surplus is selected as the method of financing improvements, it is a very expensive method from the point of view of the users of railway service.

The second objection to such a use of surplus is this. Not only does it mean that the users of the service are called upon to provide, in advance, the full amount of the capital requirements plus 50% more to be turned over to the Dominion Government in income tax, but it means also that the money so contributed to the railway is taken into the general treasury of the corporation and is likely to be treated in the future as money belonging to the owners of the company. In other words, the use of surplus in this way makes it very difficult to maintain the important segregation between money contributed by the owners and money contributed by the users.

For these reasons, although the Government of Manitoba does not disagree with the principle which lies behind the quotation above, it does offer the opinion that the amount to be provided in that way should be very small. Certainly the allowance by the Board of Transport Commissioners of a surplus of over \$15 million plus an additional \$7.5 million for income tax on that surplus is very much in excess of the amount which should have been allowed.

The three methods of financing which have been outlined above, are those which are available to any private or public corporation. We have expressed our views on each and our general suggestion is that each should be used to the greatest extent possible, consistent with the interests of Canada in avoiding the payment of capital charges so high as to suggest that some more radical approach to the problem should be tried.

(Page 8670 follows)

AFTERNOON SESSION

Tuesday, November 15, 1949.

MR. SHEPARD: Mr. Chairman, I think we should perhaps clear up the question with Dr. Angus.

THE CHAIRMAN: I beg your pardon?

MR. SHEPARD: I thought we should perhaps clear up the question that Dr. Angus asked this morning dealing with the question of deferred maintenance, as to whether or not it was reflected in the total maintenance figure shown on page 2 of Chapter VI of the mimeographed submission.

THE CHAIRMAN: Which table are you referring to?

MR. SHEPARD: It is the first table under the heading "Maintenance Expenses in Recent Years". As you recall, Dr. Angus' question was: Did the total in the right-hand column include deferred maintenance?

COMMISSIONER ANGUS: Yes.

MR. SHEPARD: And Mr. Moffat is prepared to answer that question. We have checked up over the noon hour.

THE CHAIRMAN: Dr. Angus did answer it in part, didn't he. All right, go on, Mr. Moffat.

THE WITNESS: The accountants in our group here have given me the totals over the noon hour. There was charged into those figures an amount for setting up in the deferred maintenance in 1941, 1942, 1943, 1944, 1945 and 1947, and in 1948 there was a credit taken out of the deferred maintenance reserve and deducted from the current charge. The total amount over the entire period is \$25,350,000.

THE CHAIRMAN: Of deferred?

A. Deferred maintenance credited into the deferred

maintenance reserve.

Q. Over the twelve or thirteen years?

A. Well, during --

MR. SHEPARD: Perhaps, Mr. Chairman, Mr. Moffat could read the figures taken in in each of the years in which they were taken in. Would you do that, please, Mr. Moffat?

A. 1941 - 3.5 million
1942 - 3.75 million
1943 - 6.2 million
1944 - 6.5 million
1945 - 5.25 million
1946 - nothing
1947 - 2.4 million
1948 - a credit of 2.25 million.

Q. And each of those figures, Mr. Moffat, for deferred maintenance is included in the total shown in that table?

A. That is correct. These figures shown in the table are the amounts charged to current operations in the year in question, either for physical work actually done on maintenance or for an amount set aside into the deferred maintenance reserve. The figures are taken from Exhibit 336, page 3.

THE CHAIRMAN: What was the figure you gave to begin with, was it 25 million?

A. That is the total, accumulated total of the whole thing.

MR. O'DONNELL: It is 25,350,000.

THE WITNESS: 25,350,000 is the cumulative total.

THE CHAIRMAN: It would be 27, would it not?

A. No, here, you see, the credit was in the other

direction, the last one, the 1948 figure is the other way. They took out of the reserve into the contribution towards expenses.

THE CHAIRMAN: Yes.

MR. SHEPARD: Now, Mr. Moffat, would you turn back to Chapter VII, page 6. When we adjourned at noon you were about to start the section headed "Special Methods which might be considered". Would you proceed to deal with that section now, please?

THE CHAIRMAN: Pardon me a moment, what chapter?

MR. SHEPARD: It is page 101 of the printed submission.

THE CHAIRMAN: All right.

THE WITNESS:

Special Methods which might be considered

It may be suggested, however, that such great amounts of capital will be required by the Canadian railways in the next few years that all of the above methods, even if used to the full, would still prove to be inadequate and that therefore, the level of Canadian freight rates should be raised drastically to make possible the sale of new capital securities in large volume on the capital markets of Canada and the United States. If such a suggestion is made, it is the view of the Manitoba Government that the proposed improvement program should be subject to careful scrutiny by the Board of Transport Commissioners. The program may be highly desirable from the point of view of the railway company, but it may be so expensive that Canada would be better served by a less elaborate and less expensive system which could be supported by a lower level of freight charges. If, on the other hand, the Board of Transport Commissioners should decide that the improvement program

is warranted in the long run interests of the country as a whole, and if, at the same time, it should be convinced that the methods of finance which have been outlined above, will not be sufficient to carry out the program, then it is the view of the Manitoba Government that serious consideration should be given to the possibility of developing other methods of raising capital.

THE CHAIRMAN: By the Board?

A. By the Board, yes.

It might be found that from the viewpoint of Canada as a whole the railways should be allowed or directed to meet their capital needs by methods which are not available to other corporations. It is our submission that your Commission should consider this matter carefully and make recommendations upon it. We offer below a few suggestions which might be useful in that regard. It is not our intention that these should be looked upon as the only possibilities but they do seem to us to be suggestions which might be more desirable from the national point of view, if the alternative is a freight rate increase of such magnitude that it would be unsupportable by the people of Canada.

Our first suggestion in this regard is that if the Board finds that an improved standard of service is desirable and that it cannot be financed in one of the above ways, then a fund for financing improvements might be created by calling upon the users of the service to pay rates slightly higher than would be required to support the existing standard of service. The additional revenue collected in that way might then be set aside in an improvement fund. The result would be to make available to the railways a fund which could be used for capital purposes without the necessity of going

outside the company and attempting to raise the money on the capital market. The Canadian railways will always have a substantial number of relatively small improvement projects to be undertaken year by year and it is our view that the provision of a fund for this purpose would not be inappropriate.

THE CHAIRMAN: That is meant to be built up by the shippers?

A. That is the suggestion, that that sort of thing might be found preferable to some other alternative that might be more expensive to the shippers in the long run.

COMMISSIONER ANGUS: Are you considering a separate fund for each railway or a common fund for the two?

A. Well, the very next sentence to some extent deals with that.

We should point out at once that it is our view that if such a fund is to be provided, the Board of Transport Commissioners should take whatever steps are necessary to satisfy itself that the improvements which are undertaken are not excessive and that the fund is actually used for improvement purposes.

I am sorry, it is not that sentence. It is a little further down.

THE CHAIRMAN: Read on, anyhow, and we will come to it.

MR. SHEPARD: Will you read on, Mr. Moffat?

A. Furthermore, the records should be kept in such a way that it is always made clear that the money provided in this way is credited to the users of the service, and not to the owners so that in future rate cases there will be no confusion on that point. We have

made no attempt to analyse all the implications of this suggestion but it is possible that by some arrangement such as this the railways might be provided with a dependable source of capital, while at the same time the annual charges against freight rates might be kept to a level substantially lower than would be necessary if all the necessary capital had to be raised on the capital market.

It is that sentence I had in mind in answer to you, sir, that we are not attempting to develop this thing in any detail as to whether it would be one fund or two funds or how it could be handled. We merely put it out as a suggestion of the sort of thing that might be considered. We are not proposing that we would actively advocate that this should be done. We are simply suggesting it is the sort of thing that someone may have to take into consideration if in the future a situation arises where capital improvements are going to call for a freight rate increase of a substantial amount.

THE CHAIRMAN: In any case it is a fund to provide an improved standard of service?

A. Yes, in the situation where there is a suggestion or a request that the railway could be given a substantial rate increase in order that they can finance improvements.

Our second suggestion is that at some time in the future, some type of direct capital assistance by the Dominion Government might have to be considered. Such assistance might take the form of government guarantee of C.P.R. bonds or in more drastic circumstances, might take the form of direct government loans to the C.P.R. We are not so pessimistic as to believe that the need for either of these will arise in the immediate future, but we do feel that your Commission should so frame its

recommendations that, if at some time in the future an emergency of this sort should arise, the possibility of direct government assistance would not be completely precluded.

MR. SHEPARD: Q. Now turn to Chapter VIII.

COMMISSIONER INNIS: Just before you start on that, I am sorry to go back, but you make very little reference here to the place of the shareholders in the C.P.R. Are they pretty well disregarded in that?

A. The place of the shareholder is part of this general question of reasonable or adequate return. Certainly they are one factor to be considered but, as I explained this morning, it did not seem advisable to suggest any particular method of deciding how much they should get. There is no intention of saying that they should not get something and that they should not get a reasonable amount, but the question is: What is a reasonable amount and how is it to be decided? The only concrete submission is that it should not be a rigid formula that would apply too strictly.

MR. SHEPARD: Before leaving that chapter, Mr. Moffat, under "Special Methods which might be considered" at the bottom of the top paragraph on page 7, which ends with the phrase, ". . .if the alternative is a freight rate increase of such magnitude that it would be unsupportable by the people of Canada" --

THE CHAIRMAN: Where is that, Mr. Shepard, in the printed copy?

MR. SHEPARD: In the printed copy --

THE WITNESS: Page 102.

MR. SHEPARD: Page 102, the last sentence of the top paragraph of the page.

THE CHAIRMAN: Well, pardon me, but would not

both these propositions come out in a freight rate increase? You say you would create your fund for financing improvements by calling upon the users of the service to pay rates slightly higher than would be required to support the existing standard of service. Is that not the same thing, that is, increased rates to provide a fund?

A. Yes, but in one case you are increasing the rates and the resulting revenue is directly being taken into the fund for improvement purposes. In the other case the alternative that might be suggested might be that the rates should be increased in order to improve C.P.R. earnings, in order that C.P.R. could pay the dividends in order that they can borrow the necessary money; and you would be involved in a much bigger rate increase in order to do it that way.

Q. No, I thought that the premise you were putting down was where the money was asked for for improvement purposes, not to pay dividends.

A. It would not take the form, sir, of a request for the payment of dividends.

Q. Then what you say here is, ". . .if the Board finds that an improved standard of service is desirable".

A. Yes.

Q. And instead of increasing freight rates, as you say, in the onerous way, they should create them in this earmarked way, but that it would be the same in the final result?

A. Not as to the amount.

THE CHAIRMAN: A slight increase. Whether the increase was slight or not would depend on the amount of money required for the purposes and the length of time allowed to make it up.

A. That is correct, and as to what alternative methods were available. If the alternative should be an attempt to raise the credit position of the company so that they could finance it by equity capital, you might be involved in a much bigger increase of rates to do it.

COMMISSIONER ANGUS: Might it not be looked at the other way around, that to raise the total capital on freight rates you would have to raise freight rates very much more than if you would just have to raise the annual interest on the investment?

A. It might work out that way, in which case the other would be the alternative. Then the suggestion here is that that sort of thing should not be overlooked as a possibility. There would have to be a weighing of the possibilities at the time in the light of the circumstances.

Q. And when you speak of the users, are you identifying in interest users in this year and the users of ten years hence?

A. Yes, that is certainly implicit in the reasoning. In fact in many respects there is identification of the users with the people of Canada, on the basis that the charges are so widely distributed and based on so many different ways that they fall almost into the nature of a tax.

THE CHAIRMAN: Yes, but it would come out as part of the freight rates?

A. Yes.

COMMISSIONER INNIS: I was wondering on this question of shareholders again. On page 100 towards the bottom of the page you refer to the Board of Transport Commissioner's judgment?

A. Yes.

Q. With reference to accumulative surpluses. Do you think the Board was stepping a little outside its jurisdiction in more or less suggesting ways in which the directors should dispose of their funds?

A. I would not want to give an interpretation of the Board's judgment there, but I don't think that they were suggesting that this was the way they should spend them. They were ^{rather} stating that in order to

the money available so that it could be used for these purposes, they thought the railways should be given a surplus. Now, there is no suggestion that they were exceeding jurisdiction in that line.

Q. Surely the directors have something to say about the allocation of funds, as to whether they are put into dividends or surplus?

A. Yes.

THE CHAIRMAN: Is that why you would ear-mark a certain percentage of rates to be used to build up this fund for improvement of the standard of service? Is that the way? It must be.

A. That is one of the considerations, yes - not the only consideration. There is the consideration of the tax position, for example.

Q. No, but the machinery you have in mind seems to me would be this, that you would say: "Here are your freight rates but a certain percentage of those and the moneys collected by you from those rates is to go into a fund".

A. Yes.

Q. So that that would be the control. They would not be under the control of the managers of the company who would not be able to say what should go into that fund?

A. That is correct on that part of the total revenue from rates, yes.

COMMISSIONER ANGUS: Would this surplus include people who shipped grain for export?

A. Oh yes.

Q. Don't those rates support too?

A. No. That is a separate question. If rates are to be raised, then with rates which are being raised an additional amount can be put on whatever rates are being raised. If any group is not being raised it cannot be raised.

THE CHAIRMAN: It is only in the case of a raise and not in any other case?

COMMISSIONER ANGUS: You are saying that the fund for financing improvements might be created by calling upon the users of the service to pay rates higher than would be required to support the existing standard of service, and I asked you if the users of the service included people who shipped grain for export and you perhaps too hastily said yes.

A. Well, certainly they do include the people who ship grain. There is no question that they are not users of the service.

Q. Well, are you proposing that they should pay slightly higher rates?

A. I do not think there is any proposal that anybody should pay higher rates. There is a proposal that if rates are going to be raised, it might be preferable to do it this way. It is not a proposal to raise this or that rate; it is

a proposal that an alternative to a big increase would be to do it this way and get a smaller increase.

Q. "A fund for financing improvements might be created by calling upon the users of the service to pay slightly higher rates than", and you say that is not a proposal for them to pay slightly higher rates?

A. No, it is a proposal that they might do an alternative to something else.

THE CHAIRMAN: Yes, but in so far as this particular class of shipper is concerned, would not the provisoes to subsection 5 of section 325 preclude them being called upon to pay anything?

A. At the present time, yes.

Q. That is as the Act is at present?

A. As I understand it, yes.

Q. They would be exempt from this increase you have in mind?

A. They would be exempt from any increase.

Q. Even the special one which is to form a fund?

A. Yes, that is right.

Q. Because it takes the form of freight rates?

COMMISSIONER ANGUS: Well, the special fund would require implementation in any case, wouldn't it?

A. I would think so; I don't know.

THE CHAIRMAN: Well, it is ear-marking the use to be made of rates derived from rail revenue from the railways.

MR. SHEPARD: Mr. Chairman, just before passing on to the next chapter, I might make reference in passing to the evidence of Mr. Northey Jones. He was an expert called by the Canadian Pacific Railway in the 20% Case and the reason I think the reference is relevant here, is that he discussed the problem and gave evidence on the problem of the Canadian Pacific Railway raising new equity capital

and the effect of his evidence and the cross examination of them by Mr. MacPherson was to indicate a very large increase in freight rates in order to provide to the Company a sufficient amount of revenue to attract new investors - about 40% to 50% increase in their rates, as I recall it. I have not got the evidence here but I think that was what motivated the Manitoba statement that it could come to a point -

THE CHAIRMAN: It is to do away with the necessity of increasing capital by selling stock?

A. Yes, I understand.

MR. EVANS: I beg your pardon sir, that is not my understanding.

THE CHAIRMAN: Isn't that what this proposition means?

MR. EVANS: It was not with any intention of doing away with capital but it was because of what Mr. Northey Jones felt was the proper proportion of Debt and Equity.

MR. SHEPARD: If I understand you, Mr. Chairman, you are asking what our submission is here?

THE CHAIRMAN: Your submission here is to dictate whatever is required out of freight rates by making an increase which is to be ear-marked for that purpose instead of what Mr. Jones suggested. Is that correct?

MR. SHEPARD: That is correct, yes sir. Now turning to Chapter Vlll Mr. Moffat, this chapter, Mr. Chairman, deals with rates as related to distance, and we intend to handle it by my reading only two paragraphs in it and then Mr. Moffat commenting briefly on the effect of the circumstances of the chapter.

MR. MOFFAT

Chapter Vlll

Rates as Related to Distance

Having thus concluded our remarks upon the problem

of determining the amount of money to be made available to the railways we turn to that of the nature of the rate structure which is to be used to collect that money.

The structure of Canadian Freight rates as was pointed out in the brief presented by Premier Campbell, is one of the major factors in the Canadian economy and one of the basic determinants of the nature and extent of the economic development in the different regions of Canada. For that reason freight rate matters have always been issues which have aroused strong public reactions particularly in areas like Manitoba which are almost completely dependent upon rail transport for outbound shipments of products and for inbound shipments of supplies.

One of the first issues which must be faced in any discussion of freight rate structures is that of the relationship between the rates charged for different distances. At the one extreme are those who propose that the rate per mile should be constant - that the rate for 600 miles should, for example, be thirty times the rate for twenty miles and twice the rate for 300 miles. At the other extreme are those who propose that the rate charged should be the same regardless of distance, i.e., that the rate should be the same whether the shipment moves 600 miles, or 20 miles, or 300 miles. In practice however, all the present Canadian rate structures are a compromise between these two extremes; the total charge increases with increasing distance but not in proportion to distance. For example a haul which is 50% longer might take a rate which is 30% greater. The only exceptions to this principle occur in cases where competition exists on the long hauls but not on the shorter hauls. Under such conditions no true rate structure exists; rather the rates are a series of unrelated amounts determined on the basis of expediency in relation to the importance of the competition.

Rates of Taper as Distance Increases

Although it is true that each of the present Canadian rate structures is a compromise between the two extremes mentioned, nevertheless there is no uniformity as to the nature of the compromise. In each case the relationship between the rate increase and the distance increase - the rate of taper as distance increases - is slightly different.

A few examples chosen from the Eastern and Prairie standard mileage class rate scales will illustrate the present situation.

			\$ per cwt.
First Class Rate for 100 miles	East		.79
	Prairie		.83
First Class Rate for 200 miles	East		1.00
	Prairie		1.23
Distance increase 100%: Rate increase	East		27%
	Prairie		48%
			\$ per cwt.
Fifth Class Rate for 400 miles	East		.76
	Prairie		.87
Fifth Class Rate for 600 miles	East		.99
	Prairie		1.13
Distance increase 50%: rate increase	East		30%
	Prairie		30%
			\$ per cwt.
Third Class rate for 600 miles	East		1.48
	Prairie		1.67
Third Class Rate for 840 miles	East		2.09
	Prairie		2.11
Distance increase 40%: Rate Increase	East		41%
	Prairie		26%

The general relationship between mileage and distance is set out in chart form in Exhibit 324 of the 30% Case. Those charts are based on the class rates as they existed before the 21% increase, but the shape and relationship of the curves would not be changed by that uniform increase.

In order to illustrate certain of the factors to be considered in a decision as to what would be an appropriate rate of taper it is necessary to direct attention to the nature of the costs which the railways incur in moving a shipment of goods and to the manner in which the length of the haul influences the willingness and ability of shippers to pay the rates charged.

The cost of moving a shipment of goods consists in essence of the sum of two types of costs:

- (a) those costs which are constant regardless of the length of haul, such as the terminal costs at the point of origin and destination and much of the necessary office and paper work, of billing, accounting, recording, etc.
- (b) Those costs which increase as the length of haul increases such as road and rolling stock maintenance, wages of train crews, fuel, etc.

We are not aware of any studies which have been made in Canada to determine the relative size of these two items or to determine whether item (b) should be treated as one which increases at a uniform rate closely related to mileage or as one which increases at a percentage rate which is less than the percentage increase in the mileage.

It is obvious from the nature of the situation that the total will increase as the length of haul increases but, because originating and terminating costs are spread over a greater mileage, the total cost per mile will decline as the distance increases.

In the case of very long haul traffic there seems to be reason to think that the line haul costs themselves are somewhat lower per mile. If this is true the result would be another factor making for a reduction in the rate per mile as the length of haul increases. In Canada

shipments of more than 600 miles almost invariably involve shipments through areas of relatively light settlement in which relatively little traffic originates or terminates. The result is that a very large proportion of the long haul traffic moves in full train loads over long distances without the need for sorting and switching in division points and terminals. On the other hand in the case of short haul traffic the amount of such sorting and switching is relatively much more important. Another factor in this regard is that with long haul traffic the pressure for speed is much less important and consequently the railways are better able to arrange their schedules in such a way as to provide full train loads reasonably well spaced throughout the day. We, of course, have no means of assessing the importance of these or other factors but it would appear reasonable to suggest that they would have a significant effect on total costs.

If the cost situation is such that the railways could afford to cut their long haul rates but instead they decide to apply a rate of taper which overlooks their saving on the very long haul traffic, they cannot ignore the effect this will have upon shippers and potential shippers. For a shipper located within a few miles of his market the freight charge is a relatively small factor in costs. For a shipper located many hundreds of miles from his market the freight charge may well be one of the most important cost factors. Consequently what might appear as a relatively small difference in the rate per mile can very materially influence the development of industry in a particular area and might have the effect of preventing the growth of a type of traffic which would be very remunerative to the railways. For this reason it is our view that the railways should be particularly careful to see that their long haul

rates are as low as can be justified in the light of the cost elements involved and that they fully reflect the savings in operating costs which are inherent in long haul traffic.

Quite aside from the self interest of the railways there are reasons of national policy which in our view require that maximum efforts should be made to keep long haul rates to the lowest possible level. As was pointed out in the brief presented by Premier Campbell, Canada moves her people and her goods over distances which are probably greater than those of any comparable country in the world. If the rates charged for those long distance movements are high the result will inevitably be a tendency to increase regional divisions and to decrease the interchange of goods between the different regions. Because of this fact it has always been a major aim of Canadian transportation policy that the cost of transportation between regions should be held to a minimum. It is the view of the Manitoba Government that at the present stage of Canadian development it is more essential than ever that the fullest possible exchange of goods between the different regions should be encouraged.

We would, therefore, suggest that your Commission should very carefully examine the rates of taper which are now embodied in the different Canadian rate structures. If that examination indicates that the costs of long haul traffic are such that the railways could implement a rate scale based upon a rate of taper which increases rates more gradually as distance increases, then it is our view that such a scale should be introduced both in the interests of the railways themselves and in the interests of a closer integration of the economies of the various regions of Canada.

At this point it seems opportune to present a table which shows more specifically the manner in which this problem is handled in the present rate structure. The following table has been prepared from the tariffs which establish the present standard mileage class rates. It shows the amount which is charged for an additional hundred miles beyond the distance that is shown. For example, the figure opposite the mileage 50 is the increase in the charge for 150 miles over the charge for 50 miles. The figure opposite the mileage 400 is the increase in the charge for 500 miles over the charge for 400 miles. The table presents this information with respect to the average of all ten classes in the Prairie Scale and with respect to the average of all ten classes in the Eastern Scale. As a useful and interesting comparison it presents the same information for the basic class rate prescribed for application in all territory covered by the 1945 decision of the Interstate Commerce Commission following a six year investigation of class rates in the United States. (1)

Amount Charged for An Additional Haul of
100 Miles Beyond the Mileage Shown

Mileage	<u>Prairie</u> ¢ per cwt.	<u>Eastern</u> ¢ per cwt.	<u>I.C.C. Scale</u> ¢ per cwt.
50	24.9	20.4	20
100	19.4	13.6	20
150	17.3	15.4	20
200	17.0	16.3	20
250	16.5	16.0	-
300	16.1	11.7	15
350	15.7	12.2	-
400	14.8	12.4	15
450	14.8	10.0	-
500	14.7	13.9	15
550	14.2	18.1	-
600	14.0	19.0	15
650	13.5	17.3	-

<u>Mileage</u>	<u>Prairie</u> ¢ per cwt.	<u>Eastern</u> ¢ per cwt.	<u>I.C.C. Scale</u> ¢ per cwt.
700	12.5	18.2	15
750	12.2	19.9	-
800	12.6	19.7	14
850	12.1	17.7	-
900	12.3	16.9	14

One point is abundantly clear from this table: the taper which is embodied in the present Eastern class rate scale is completely unsatisfactory. It actually increases more rapidly in the long hauls than in the short hauls. Up to and including 500 miles the average charge for an additional 100 miles is 14.2¢, but above 500 miles the charge for an additional 100 miles averages 18.3¢. The prairie scale on the other hand follows the general pattern which one would anticipate although in this table there are two instances where the additional amounts for an extra one hundred miles is greater on longer hauls. It, therefore, appears to us that the taper which is embodied in the present western scale is preferable to that in the eastern scale. As to the level of the two scales, our comments on that subject are included in the chapter entitled "Characteristics of the overall rate structure".

This does not mean, however, that we suggest that the taper in the western scale should be adopted generally. We do not have access to the information or the expert knowledge which would be required to reach a decision as to the rate of taper which is proper at the various distances to which a class rate scale must apply. For that reason we would not wish the above table to be interpreted as a suggestion that we advocate the adoption of any one of the three scales shown. In general terms, however, our view is that the rate scale should be such that at each distance it covers the costs involved and that particular care should be

taken to see that it does not provide unnecessarily high revenues to the railway from the long haul traffic which forms the backbone of Canadian Railway traffic and of the Canadian economy as a whole.

MR. SHEPARD: We, therefore, suggest that your Commission should recommend a thorough study of this whole question of relationship between rates and distance, and that in that study particular attention should be paid to (a) the importance of those elements of cost which must be paid regardless of the distance the shipment moves, and to (b) the extent to which other costs show evidence that the line haul costs per mile are lower on long haul traffic than on short haul traffic.

THE CHAIRMAN: Pardon me, that is part of the paragraph in which you say that you are not to be taken as suggesting that the taper in the Western scale should be adopted generally?

MR. SHEPARD: That is correct sir.

THE CHAIRMAN: Now the opposite manner to the taper is the horizontal.

MR. SHEPARD: No, I think they consistently go together. Mr. Moffat will describe that after I finish.

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MR. MOFFAT HORIZONTAL PERCENTAGE INCREASE

In their application in October, 1946, the railways asked for authority to make a uniform increase of 30% in all freight rates which were under the jurisdiction of the Board of Transport Commissioners with the single exception of coal. In their second application in July, 1948, they again asked for authority to make a uniform increase, although the figure proposed was 20%. In its Decision, in March, 1948, the Board authorized a uniform increase of 21% applicable throughout Canada; the decision on the 20% Case has not yet been delivered.

Manitoba has always opposed such proposals and has urged that flat percentage increases of this sort were most unfair to the people of Western Canada for two reasons:

- (1) Because a horizontal increase of this type would automatically aggravate regional discriminations which already exist. This is true for the simple reason that a percentage increase on a high figure is always greater than the same percentage increase on a lower figure. For example, if the rate in one area is \$1.00 and it is raised by 21%, the increase is 21c, while if the corresponding rate in another area is \$1.50, a 21% increase amounts to 31.5c.
- (2) Because even in the absence of regional differentials of this sort, a horizontal increase has the effect of charging against long haul traffic a very much greater increase than that which is charged against short haul traffic.

The truth of the first proposition is self-evident and only its importance needs to be assessed. We of Western Canada have long held the view that regional discriminations should be eliminated and in this present submission we state

our views on that matter at length in the chapter entitled "Regional Considerations." As pointed out in that chapter there has in the last 2 years been an important reduction in the most serious discrimination against the Prairie region, but that reduction does not affect the essential validity of the proposition that a uniform percentage increase aggravates all existing regional discriminations. For that reason we are still of the view that it is a fundamentally unsound policy for the Board to apply uniform percentage increases without first making a real effort to eliminate discriminations.

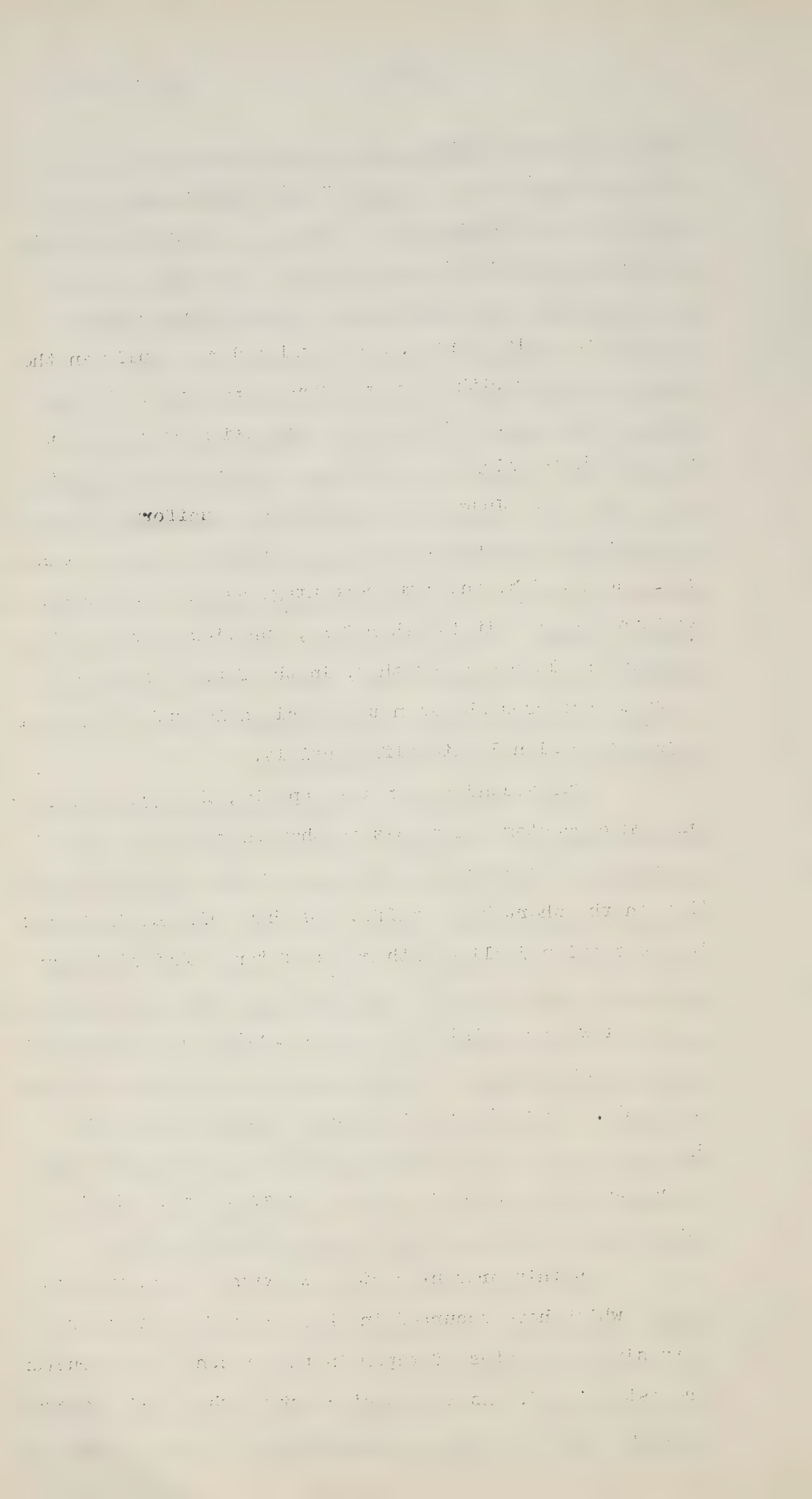
In this connection we would point out that in every major rate increase case from 1916 to 1920 the Board authorized a larger increase in the East than in the West. The avowed purpose was to reduce the regional rate differential against the West. In the Eastern Rates Case (1916) an increase of 5% was authorized in the East but none was authorized in the West. In the so-called 15% Case (1917) Western rates were raised 10% only, whereas the general bulk of Eastern rates were raised 15%. In the 25% Case (1918) the Government by Order-in-Council directed the Board to put into effect an increase of 25% in all rates in Eastern Canada, whereas in Western Canada the increase was limited to 25% above the level previous to the 15% Case. In the 40% Case (1920) the Board granted a 40% increase in Eastern rates and a 35% increase in Western rates. In the Rate Reduction cases in 1921, the reductions were arranged in such a way as to preserve the equalizing effects of the rate increase cases which have just been enumerated.

In other words every general freight rate adjustment which was authorized from 1914 to 1948 was used as an opportunity to further reduce the discriminatory differential against the Prairie Provinces. We are convinced that

that policy was fundamentally sound although we are not satisfied that it was carried to the extent which was required by the circumstances. It is our view that the differential which still remained even after these various decisions was still much beyond anything that could be justified. This point will be developed more fully in the chapter dealing with "Regional Considerations". In 1948, however, the Board of Transport Commissioners saw fit to reverse this policy of eliminating regional discrimination, and in the 21% Judgment it authorized a **uniform** 21% increase in all parts of Canada. The higher rates in Western Canada were increased by the same percentage as the lower rates in Eastern Canada. It is, therefore, our view that your Commission should recommend that, in the future, uniform percentage increases should not be applied in such a way as to aggravate regional rate differentials.

Our second reason for opposing the application of uniform percentage increases is that they have the effect of imposing a much greater increase on the long haul traffic than on the short haul traffic. We have already indicated in the section dealing with rates of taper that it is our view that in the national interest long haul rates should be kept as low as possible in order to facilitate the greatest possible interchange of goods between the different regions of Canada. In that same section we pointed out certain characteristics of the underlying cost factors which tend to produce for long haul traffic a cost per mile which is lower than the cost per mile for short haul traffic.

In this present section we wish to deal with the changes which have occurred in these cost factors in the years since the rates of taper in the present rate structure were established. As was pointed out in the earlier discussion, the cost of moving a given shipment can be thought of



as the sum of two components:

- (a) the cost of originating and terminating the shipment together with the cost of the necessary office and paper work involved;
- (b) the cost of actually moving the traffic over the railway lines.

Both types of costs have increased materially since the basic patterns of the present rate structure were laid down over half a century ago, but some types of costs have increased more rapidly than others and in some cases there have been important offsetting factors. It is our submission that these cost changes should be analyzed to discover whether there have been important differences in the magnitude of their effect upon the two components mentioned. We obviously do not have the necessary data to make such an analysis, but there does seem to be evidence that terminal costs (a) above) have probably increased more sharply than line haul costs (b) above).

During the 50 years or more since the basic characteristics of the present rate structure were laid out, increased efficiency of operation in the actual hauling of freight traffic has been substantial. This increased efficiency must have offset a substantial part of the cost increases from other causes in the line haul component. Furthermore an important element in line haul costs is the burden of the charges payable on the capital invested in road property. The carrying charges on bonds are substantially lower than they were 50 years ago and the same is true of capital charges generally. Consequently this factor too is an offsetting influence to the increases in line haul costs from other sources.

On the other hand there do not seem to be corresponding offsetting factors in terminal costs. Consequently

it seems likely that terminal costs have felt the full weight of increased operating expenses while line haul costs have gone up less sharply. It, therefore, follows that in any rate increases to compensate for higher current operating costs the terminal cost component should be raised by a percentage which is greater than that applied to line haul costs. Since the terminal cost in short haul traffic is a larger proportion of the total it follows that the percentage increase on short haul traffic should be greater than on long haul traffic.

This situation appears to have been recognized by the Interstate Commerce Commission for in each of its recent decisions authorizing freight rate increases in the United States it has attached a long schedule setting out the maximum increase per ton which is to apply to each commodity named. In other words in the recent I.C.C. decisions the practice has been to allow a certain percentage increase on short haul traffic but to specify a constant number of cents per ton on longer hauls so that the percentage increase on the long hauls is smaller.

In dealing with this question in its Judgment of March 30, 1948, the Board of Transport Commissioners said: (1)

"There were submissions that if increased rates were authorized there would be varying percentages of increases, the lowest percentage of increase being made on long hauls and the highest percentage of increase on short hauls; it was also suggested that maximum increases should be provided in order to avoid a very large increase upon relatively high rates from distant points of production to important markets. One difficulty with respect to the adoption of a varying or maximum increase is apparent, namely, the lack of reliable traffic

statistics from which to determine the additional revenue
(1) Printed Judgment - page 65

which would accrue from flat or maximum increases on particular commodities. Further there is not on the record anything to enable any determination concerning the commodities and sections of the country and even the individual rates which could best bear the burden of an increase."

It is our submission that the lack of reliable traffic statistics is much too flimsy an excuse for failure to take action upon a matter of such importance as this. The Board of Transport Commissioners has been in existence for many years and if proper statistics are not available they should have been made available, or the Board could have put its staff to work to prepare satisfactory estimates.

MR. SHEPARD: It is, therefore, the submission of the Manitoba Government that your Commission should recommend against the use of uniform percentage increases in rate increase decisions and should support instead some system whereby the percentage increase applicable on long haul traffic would be lower than that on short haul traffic.

Now Mr. Moffat on the question of those two excerpts I have read, I understand those constitute the submissions in this chapter and that you are now going to outline all that led to these submissions. Would you please proceed?

A. The points that are developed in this chapter -

THE CHAIRMAN: You are talking of Chapter VIII?

A. Yes sir. I am not going to follow quite the same order in which the points appear in the chapter itself. The chapter develops the point that national policy requires that the long haul rates be kept down wherever possible in order to encourage trade between the different regions, and to bring about a closer integration of Canada as a whole. It also develops the point that that policy is quite

consistent with good railway economics and with good financial analysis of the problem of rate structure because, in the first place, there seems evidence that cost increases recently have been particularly heavy on the terminal costs which form a bigger percentage of the short haul traffic, and have been relatively less severe on the line/^{haul} factor which is the more important factor in the long haul traffic. Secondly the point has developed that the present rate structure, basically, the class rate structure, itself has been in effect now for close on to seventy years and that during that period there has been a substantial improvement in the efficiency of railway operations, particularly the part of railway operations that are in the cost of hauling traffic from point to point, improved locomotives, improved standard of track and that sort of thing, a tendency resulting from that to offset the increase in operating costs.

On the other hand, in the terminal costs which have to be made up by loading and unloading and delivering around the cities and distributing the cars and spotting the cars in the bigger terminals, there does not seem to have been a corresponding improvement in the efficiency of rail operations. Consequently it seems clear that whatever was a proper relationship between the long and short haul rates when they were first established sixty or seventy years ago, must by now have come to the situation where there would be a justification for raising the short haul rates by a larger percentage than the long haul rates.

The chapter then goes on to point out that in addition to these facts there is the effect which a straight increase or, as it has otherwise been called, a horizontal increase would have in magnifying any regional discrepancies that are there. If the rates in the west are higher than they

are in the east, a flat percentage increase will automatically put a larger increase on the west than it does in the east but the chapter as a whole does not concentrate on the question of regional discrepancies. It takes the more fundamental position that even if those regional discrepancies were taken out of there, the nature of the operating cost is such that from the point of view of good railway operation it would be possible to keep down the long haul rates and to raise the short haul rates slightly, and that is perfectly consistent with what we perceive to be ^{the} wishes of the country as a whole. That is what leads up to the two submissions which Mr. Shepard read.

MR. SHEPARD: Then, Mr. Moffat, will you turn to Chapter IX unless the Commission has some questions. Chapter IX is entitled "Characteristics of the Overall Rate Structure" and I understand it is your intention to deal with this fairly exhaustively. Mr. Moffat will you just proceed.

Q. Well, beginning to read at the middle of the first page of this chapter -

CHAPTER IX

CHARACTERISTICS OF THE OVERALL RATE STRUCTURE

The concern of this chapter is to express the views of the Manitoba Government on the question of the general characteristics of the rate structure which would be most suited to the needs of this country. There is little doubt but that the present rate structure and the principles under which it has grown are no longer completely satisfactory, if indeed they ever have been. The grievances which have been aired with respect to individual rates, groups of rates and the rate structure as a whole, provide ample proof that the overall result of allowing the railways to set rates on the basis of charging what the traffic will bear, within the limits of the ceiling established by the Standard Class Tariffs and circumscribed by the Board's attitude on the question of "unjust discrimination," is far from satisfactory. The public is dissatisfied with the result and one might go further and suggest that the result may not be in the best interests of the railways either. The purpose here is to suggest an alternative approach which will produce more satisfactory results.

No one would be naive enough to assert that a rate structure can be devised which will be satisfactory to all interested parties, for freight rates are too complex and play too strategic a part in the economic life of the country for that condition to prevail. Although it is certain that no structure will be completely satisfactory to every section of the Canadian public, nevertheless there is much to be gained by an attempt to mould a rate structure following principles which lend themselves to a minimum of legitimate criticism, even though added administrative difficulties for the railways and for the regulatory tribunal may be involved.

It was with considerations such as these in mind, that the Manitoba Government included, as item 3 in its brief of points, the following:

"3. It is our submission that it should be a fundamental principle of the Canadian railway freight rate structure, that freight rates charged for the same traffic over the same distance should be equal, except where costs, competition, the needs of national development or other circumstances require some deviation from that principle."

Now the remainder of this chapter is what we might term the "sermon" based on that text developing the various aspects of it.

THE CHAIRMAN: To what extent then does your view differ from the provisions of the present section 314 of the Act?

A. Well, I don't know whether I can summarize it.

Q. That is a large question but did you have that particular section in mind when this was drafted?

A. Well, as in the other sections of this brief, the brief has been written in terms of what policy seems to be desirable without consideration to whether or not it is exactly covered in the present Act or not covered in the present Act. I would not care to offer any very useful comment about all that.

Q. You do not go on there to suggest amendments?

A. No. Before I continue to read, I would like to refer just briefly to the last line of that quotation:

" - the needs of national development or other circumstances require some deviation from that principle".

What we had in mind there were one or two specific

points - the question of rates to keep traffic to Canadian ports and to Canadian lines through the Maritimes, for example, or the need to get traffic started and to meet what one might call "Market Competition" the sort of situation where a given industry in order to bring its product to market -

Q. In those respects you have in mind lower rates - not higher?

A. Lower rates. It is a special form of competitive rate in a sense but still subject to the overall guidance which we develop a little later as to how competitive rates should be handled.

Q. Then these rates would depart from the principle of equity by being lower?

A. That is correct.

(Page 8715 follows)

A. That is correct.

For the sake of emphasis we would draw attention to the two concepts which are involved here. First and foremost "it is our submission that it should be a fundamental principle of the Canadian railway freight ^{rate} structure that freight rates charged for the same traffic over the same distance should be equal." Secondly, this is, of course, impossible of complete achievement in practice and consequently we proceed immediately to indicate that we are prepared to recognize exceptions "where costs, competition, the needs of national development or other circumstances require some deviation" from the principle of equality.

The fundamental nature of the first proposition arises from the idea that all Canadians wherever they may be located, are entitled to equal treatment unless there is some very good reason for a difference in treatment. In other words, those who support a rate structure which, on its face, calls for unequal treatment of certain groups or certain areas, must meet a heavy onus of proving the necessity and desirability of that unequal treatment. It is not good enough simply to take the position that the rate structure has always had elements of discrimination and that those discriminations should be continued until someone proves that they should be removed. Our submission is that each discriminatory feature should be examined in the light of present circumstances and that equality should be established except where deviations can be justified now. We would go further and suggest that your Commission should recommend that the Board should, of its own initiative, maintain a constant review of these discriminatory elements so that each will be eliminated as soon as there is a material change in the circumstances which originally made it necessary. It is our view that the present rate structure in-

cludes many elements of discrimination which are there simply because no such review has been made in the past.

THE CHAIRMAN: Q. In that paragraph you embrace all discrimination?

A. That is correct.

Q. You do not single out unjust discrimination?

A. I think that may be---

Q. Or undue discrimination?

A. I think that may be the fundamental distinction, that the concept here is equality, and that deviation from equality must meet the onus of proving that it is desirable and necessary.

Q. You say that the Board should maintain a constant review of these discriminatory elements so that each will be eliminated as soon as there is a material change in the circumstances which originally made it necessary. Yes, I see.

COMMISSIONER INNIS: Q. But your equality becomes almost a deviation as well?

A. We develop a little further over a more elaborate definition of equality, but as we are advocating it here it would apply to the class rates specifically and to any other rates where the conditions are so similar that no one is able to justify a difference. Basically it is a shift of the onus, from accepting the present situation except where a case can be made for changing it, to accepting equality where a case can be made for deviating from it.

MR SHEPARD: Q. Will you carry on, please, Mr. Moffat?

A. There are too many differences in rates under the present rate structure which are not justified by differences in the circumstances under which the traffic is carried and this fact naturally gives rise to bad feelings and charges

of discrimination. A rate structure which allows deviations from uniformity on a more careful basis, one which requires that any proposed deviation should meet certain clearly established criteria and thus preserves a semblance of equal treatment to the user wherever he may be situated, is the sort of rate structure which the Manitoba Government recommends. Moreover the onus of establishing the need and justification for deviations from uniformity should be placed squarely on the party requesting them and should be subject to approval by the regulatory tribunal. The practice followed in the past whereby the railway company could grant lower rates at will, subject only to proof of unjust discrimination by some other interested party has produced a rate structure which is hardly reconcilable with considerations of the public interest.

Of particular importance in the growth of the present unsatisfactory rate structure is the large accumulation of substandard "competitive" rates in the Provinces of Ontario and Quebec. These rates were the subject of considerable discussion in the rate cases of the past few years, but the problem which they raise is still unsettled. Our criticism is directed partly to the level of those rates as such but more fundamentally we are concerned with the fact that higher rates have been charged in the West in an effort to recoup the railways for the revenue lost in areas where competitive rates are numerous.

THE CHAIRMAN: Q. When you say:

"These rates were the subject of considerable discussion in the rate cases of the past few years, but the problem which they raise is still unsettled",

do you mean that the recent judgments of the Board then do not make any disposition of them, or do they make one that you do not favour?

you do not favour?

A. Well, as I remember -- I do not have the quotation exactly here, but primarily what they said is, this is a question for a general rate investigation and not a question to be dealt with as part of a revenue case. Now, it may be argued that that is a sort of problem that the Board of Transport Commissioners should deal with under the Order in Council 1487, but it seems to us that what is needed from this Commission is a recommendation as to the policy which should guide the Board of Transport Commissioners in making such a review. In particular we are asking that they should be redirected by one means or another to accept as their basic principle this idea of equality, subject to special deviations, rather than that they should accept their past decisions as justifying the present rates, and then start on the basis that the present rates structure stays except where someone can make a case for changing it.

COMMISSIONER INNIS: Q. Do you want^{us}/to do something more than is indicated in 4678?

A. Not 4678, sir.

MR SHEPARD: 1487, is it?

COMMISSIONER INNIS: I am thinking of the general freight rate investigation.

THE WITNESS: Yes. We are asking for something more than that. We are asking for some directives as to policy and some recommendation that either the statute should be changed or that some change should be made so that they will not consider themselves bound by past precedents which were based on conditions thirty and thirty-five years ago.

THE CHAIRMAN: Q. Well, they are instructed there, are they not, to produce a reasonable rates struc-

ture which will, under substantially similar circumstances and conditions, be equal in its application to all persons and localities?

A. Well, sir, they were instructed to do that twenty years ago, and they have on their decisions a group of decisions which say that the present rates structure is that, as they interpret reasonable and just, so that a new inquiry---

Q. We are talking of equal.

A. Yes, but that wording is very close to the same instructions which they got twenty years ago.

Q. Do you mean to say, then, that they did not carry it out twenty years ago?

A. Well, there is a question of interpretation of what is equal.

Q. Oh, I see. Well, how are you going to get around that?

A. Well, our suggestion here---

THE CHAIRMAN: There was a formula that our colleague Dr. Angus gave us on an earlier occasion.

COMMISSIONER ANGUS: We are all equal, of course, but some are more equal than others.

MR SHEPARD: Q. Would you continue, please, Mr. Moffat?

Is it in order for Mr. Moffat to continue, sir?

THE CHAIRMAN: Oh, yes.

THE WITNESS: The next section then deals with the criteria for departure from equality, that is, the criteria which we suggest should apply in any case where there is to be deviation from the basic principle of equality.

CRITERIA FOR DEPARTURE FROM EQUALITY

We turn now to a discussion of the criteria which might be applied in deciding whether deviation from

equality is required. The standard defence of competitive rates has always been that they are necessary to hold the traffic. The argument is that other forms of transportation are charging rates lower than the "normal" freight rates and that rail freight rates must be reduced to retain the traffic. It is argued that this is fully justified so long as the rates charged are high enough that the revenue secured from the traffic concerned exceeds the expenses which would be saved if the traffic were abandoned. It was on this particular question that Mr. G. A. Walker, Chairman of the Board of Directors of the C.P.R., stated before this Commission that there were two criteria for determining the lowest competitive rate which could be justified.⁽¹⁾

COMMISSIONER ANGUS: Q. When you speak of charging rates lower than normal freight rates, you mean normal railway rates?

A. Yes.

The two criteria which Mr. Walker suggested were:

1. The rate must never be less than the out-of-pocket costs plus a margin above that.
2. The rate should not be lower than is necessary to meet competition.

COMMISSIONER INNIS: Q. Is 1 the same thing as the compensatory rate we heard so much about?

A. I think so.

THE CHAIRMAN: I suppose it depends on the size of the margin.

THE WITNESS: It is well to consider this defence of competitive rates in the light of present railway operating costs and the changes which have occurred in operating costs in the past few years. We would like to direct attention to two aspects of this matter.

1. The fact that the railways now express the opinion that 80% or more of their operating expenses are variable with traffic, whereas, in earlier years the percentage quoted was very much lower than that.
2. The fact that operating expenses both for the railways and for their competitors have increased very greatly quite regardless of any cost changes which have resulted from changes in the volume of traffic.

During the 20% Case the C.P.R. argued strenuously that at the present level of costs and traffic, at least 80% of its operating costs vary directly in proportion to traffic.⁽¹⁾ They contended that if traffic were increased by, for example, 10%, the result would be an increase of approximately 8% in operating costs and that if traffic volume were to decline by 10%, operating expenses would decline approximately 8%. If one looks at this situation in relation to the argument presented in connection with competitive rates, the conclusion is that if the proposed competitive rate is less than 80% of the normal rate then the railway could, by withdrawing from the traffic, entirely eliminate a cost element which is larger than the additional revenue which it is expecting to draw from the traffic concerned.

COMMISSIONER ANGUS: Q. Would that be true for all commodities?

A. No, it would not be true for all commodities. The extent to which it is absolutely true will depend on whether you are looking at one commodity or a group of commodities, but the basic principle remains that, whatever that figure is, whether it is 80% or 70% for a particular

(1) Transcript - pages 3397 to 3400 and pages 3931 to 3933.

commodity, if it is larger than it was ten years ago, then the case for competitive rates is very much less than it was ten years ago. That is the basic point there, regardless of what the figure is, whether it is 80 or 70 or 90 for the particular commodity or group of commodities that you are dealing with.

THE CHAIRMAN: Q. But would that relieve the situation that is found now to be objectionable? That is, according to this they would eliminate the cost element by not carrying this particular traffic; is that right?

A. They have to consider the advisability of doing that.

Q. Well, you say that?

A. Yes.

Q. You say the conclusion is that if the proposed competitive rate is less than 80% of the normal rate then the railway could, by withdrawing from the traffic, entirely eliminate a cost element which is larger than the additional revenue which it is expecting to draw from the traffic concerned; but then they do without the revenue?

A. They do without the revenue, but they would also do without the expenses, and presumably if---

Q. Do you say the expenses are greater than the revenue?

A. If we accept their argument on this point, yes.

Q. Then if the expenses are greater than the revenue, is not their own definition of a proper competitive rate---

A. We go on to adopt their definition. We say their definition is perfectly satisfactory if they apply it.

Q. But you say they do not carry out their definition?

A. That is right.

Q. And their own figures show that?

A. Well, there is some suggestion of that, yes.

Q. Well, you quote them; you say that the 20% case used those percentages, 80% and so on?

A. The point that I made in answering Professor Angus is important, though, that it is not 80% or 70%, it is the fact that, whatever that figure is, it is bigger now than it was ten years ago, which is significant. In fact, the very next sentence:

It is not our purpose to attempt to justify the figure of 80% or any other figure in this context. We merely wish to point out that under conditions in which operating costs vary extensively with changes in traffic volume, there is very much less justification for competitive rates than there was under conditions in which operating costs varied only slightly with traffic volume.

Q. Pardon me a moment. I want to make sure that I understand you. You say, " . . . there is very much less justification for competitive rates . . . "?

A. Yes.

Q. You are always assuming, though, that the abandonment of the competitive rate means the abandonment of the traffic; they will get nothing at all from that; they give it up?

A. It means that there will be a substantial number of situations in which by abandoning the traffic they would abandon revenue and would abandon a larger expense.

Q. You think in that way that would relieve the higher rates that are prevalent elsewhere?

A. If the amount of expense that would be saved is larger than the revenue that would be lost, yes. They always have to have that as a bottom limit someplace; the question is, where?

Q. You argue in these cases that these so-called competitive rates do not come within the definition Mr.

Walker gave?

A. That is right.

Q. It is only then that you say that they should be abandoned?

A. That is correct.

COMMISSIONER ANGUS: Q. Have you any suggestion in mind as to the order of magnitude of the improvement in net railway revenues that would be effected by doing without traffic?

A. No. We express the opinion over here that under present conditions it seems to us that there would be very little traffic lost by bringing these competitive rates up to a level that would be reasonably close to equality with our western rates.

Q. Well, that is another argument again, different from this argument?

A. Yes. This is saying that they need to be examined individually to find out whether there are cases of the sort which would justify them abandoning traffic, but then we go on to say we do not think there are many of those situations at the present time, because we think more generally that they could raise the rates.

Q. You do not think it would do you very much good if they did abandon traffic?

A. We do not think they would abandon traffic; that is the point; we think they would find that the traffic would stay there.

THE CHAIRMAN: Q. Even if they raised the rates?

A. Even if they raised the rates.

Q. Have you in mind any particular competitive rates that now sin against the definition Mr. Walker gave? Do you raise that further on?

A. Well, the remainder of the chapter is mainly

directed at some of those specific issues.

Q. You specify there, do you?

A. Yes.

MR O'DONNELL: Like the farm implements rate.

MR SHEPARD: Q. Will you carry on, Mr. Moffat?

THE CHAIRMAN: Q. That is why you are prepared to say that certain rates are non-compensatory?

A. That is it, sir.

In this connection, it is significant to note that Exhibits 372 and 373 of the 21% Case give a substantial number of examples in which competitive rates were then in effect at figures as low as 44% of the standard rate. In fact a few cases are quoted in which the competitive rate was less than 30% of the standard rate.

That of course has been corrected to some extent now because of the additional 15% increase on the competitive rates, but this was put in as an example of what the situation was at the time when the cases started.

It is also significant to note---

MR EVANS: Q. That was when price control was in effect?

A. Yes.

It is also significant to note that in those two exhibits the largest discount on competitive rates and the largest number of competitive rates are found in Eastern Canada.

We would also like to direct attention to the effect upon the competitive rate situation which results from the fact that operating costs have increased quite aside from any increases in traffic volume. In recent years there have been substantial increases in operating expenses, both for the railways and for competitive types of transport. One result of this is that there is less

need for the low competitive rates to hold the traffic for the railways since the cost of providing the competing transportation service has also increased, and the rates charged for it have likewise been increased.

On the other hand, from the point of view of the railways themselves these cost increases have completely upset any former calculations of the rate which would be high enough to return out-of-pocket expenses of the railway. The out-of-pocket expenses of the railway are primarily those which relate to wages of operating crews, the cost of fuel, the cost of rolling stock, etc., on which price increases have been large. On the other hand, the constant costs, which must be met even if a somewhat smaller volume of traffic is carried, involve many items on which increases have been smaller or on which there have even been declines on a per unit basis. It is, of course, true that increases have occurred in both categories and that in both categories there are items which have relatively small increases, but in general it seems clear that the largest increases have been in the out-of-pocket expense category. It follows therefore that whatever increase in rates may be justified on an average basis, the rate increase which should be applied on the competitive rates is a figure somewhat larger than that average.

It is not possible to reduce to precise figures the cumulative effect of these changes in operating conditions, but it is the view of the Manitoba Government that these points should be drawn to the attention of your Royal Commission and that in preparing your recommendations you should take them into account. It is our view that your recommendations in this regard should be that the Board of Transport Commissioners should require that a

railway company, which finds itself faced with increased operating costs, should, before it is granted a general increase in its rates, make a careful review of all its low competitive rates to determine whether it would not be to its advantage to cancel some of its low competitive rates even though a loss in traffic might result. In other words, we feel that the railways should be required to seriously consider the advisability of allowing the traffic to go to competing forms of transportation because of the fact that the saving in operating expenses to the railways may well be greater than the revenue which would be derived if they were to establish rates low enough to keep the traffic for themselves. It is our view, however, that if this matter were given careful study it would be found that competitive rates could be raised substantially above their present level in many cases without any substantial volume of traffic being lost, for the reason that the cost of transporting goods by other means have increased by at least an equal amount.

THE CHAIRMAN: Q. Don't the railways know these things? Are they not watching it for their own interest, to raise rates when they can?

A. They have been continuously doing this sort of thing for the last couple of years, a series of---

Q. Why should they allow a so-called competitive rate to remain where it is if they can increase it without losing the traffic?

A. That is one question that we have asked ourselves many times, why they have done it. We know they have done it. We have been trying to find the reason why. I have a few suggestions, but I have not come to a complete answer as to just why it has been done, but the fact is it has been done.

Q. You are sure of that?

A. Yes, I feel very sure of that.

MR SHEPARD: Will you go on, please, Mr. Moffat?

A. This analysis has been developed in terms of competitive rates but it is our view that it is applicable to all rates which are lower than the general level whether those rates are technically termed competitive or whether they fall into some other category such as agreed charges or commodity rates.

It is the belief of the Manitoba Government that a substantial number of competitive rates, agreed charges, and other special rates, are now in effect, which would not now be introduced if judged by the criteria which have just been discussed.

Here are some of the reasons, sir, in this next sentence:

To a large extent, these rates are the result, in some cases, of the fact that they were initiated without due regard to all the circumstances and, in other cases, of the fact that the original circumstances are now materially altered. Such rates are particularly numerous in Ontario and Quebec and they are one of the important reasons why the level of rates in Eastern Canada is on the average, lower than in Western Canada. Our views on this point are discussed at some length in the chapter headed "Regional Considerations."

The situation described above could not have developed if a closer check on all rates which deviate from the standard class rates had been maintained by the regulatory tribunal. By adopting the recommendations made in this chapter as to equality of rates and the conditions under which departures from equality would be allowed, some guarantee would be provided that that situation would not

develop again.

COMMISSIONER ANGUS: Q. What means of knowledge are open to the regulatory tribunal that are not open to the railways?

A. None.

Q. Yet you say the railways in their own interest would do these things?

A. Yes. I think possibly the reason lies in this, that the railway traffic departments and the shippers are in constant touch with each other, and the railways are always attempting to stay in good relations with their shippers, naturally enough. The result is that from the point of view of public relations it is much preferable for them to come to the Board and ask for a ten per cent increase and get a ten per cent increase or whatever the figure is, and then go to all their shippers and say, "Well, we are putting on ten per cent right across the board." Then they don't create any bad friends or create any disturbance with their shippers, and the thing runs along fairly smoothly, whereas the other method is a long, slow process, makes a lot of bad friends, and---

THE CHAIRMAN: Q. How often does that happen?

A. Well, it certainly happened in the 30% case, sir. They came to the Board asking for a 30% increase, and after being held back very strenuously by the provinces they put on 15% on competitive rates, but it was after practically a year of litigation before the Board of Transport Commissioners, rather than starting on the competitive rates first.

Q. Well, we heard some complaints out west, too, where they had put rates up that they had previously brought down?

A. Yes.

Q. On certain commodities -- complaints that they had done just what you say they ought to do?

A. That is correct.

MR SHEPARD: Mr. Chairman, I think Mr. Moffat did not state the fact quite correctly.

MR O'DONNELL: No, I do not think so.

MR SHEPARD: Well, just let me state it. The competitive rates were increased following the 21% judgment by 21%, and then following that the railways increased the competitive rates a further 15% at about the same time that they launched their second application for two things, (1) an interim increase of 15%, and (2) a permanent increase of 20%. I think that was more or less the sequence of how the competitive rates were increased with relation to the rate cases themselves.

THE CHAIRMAN: They were increased then in the same ratio, were they?

MR SHEPARD: Immediately after---

THE CHAIRMAN: The 21% was added to the competitive rates as well as to the standard rates; is that it?

MR SHEPARD: That is correct, sir; and then following that the competitive rates were increased another 15%.

THE CHAIRMAN: And the competitive rates also?

MR SHEPARD: That is what I say. The competitive rates were increased another 15% at the same time that the 20% case started. The application was filed---

THE CHAIRMAN: At the time that the case started?

MR SHEPARD: Yes, sir.

THE WITNESS: The second case, that is, sir.

THE CHAIRMAN: That is the case that has brought out so far an interim increase of 8%.

MR SHEPARD: Yes, sir.

THE CHAIRMAN: But while that is going on there is an increase in competitive rates of 15%.

MR SHEPARD: That is correct, sir.

THE CHAIRMAN: Effective now.

MR SHEPARD: Yes.

MR EVANS: May I also add to that story, to have the record complete, that there were a very large number of competitive rates entirely eliminated and a great many individual increases in rates that are not included in the 15%. That is to say, all rates, competitive rates, were increased, first by 21%, then by 15%, and then a lot of them overhauled and completely eliminated or further increases granted. So that is the story as it now stands.

MR SHEPARD: And this was all done, I might add, Mr. Chairman, after the 30% application had been filed.

MR O'DONNELL: And they were not allowed to do it before.

COMMISSIONER ANGUS: Q. What you have just been telling me about the shall we say want of enterprise of the railways in/^{not}raising rates that they might raise is really consistent with what you said this morning, that you wanted to have the C.P.R. continue as a private enterprise because of its efficiency in competition?

A. Well, so long as it is restricted to individual commodity rates, and so long as it does not fall on one region to the exclusion of another. That is a quite different situation from one which develops over a period of years, with the result that one region on the average gets its rates substantially lower than another region, and consequently the western area returns a total revenue to the railways which in a form is compensating them and keeping up their over-all revenue which they are not

deriving in the other district. I think there is a fairly sharp distinction between the public interest in seeing the over-all effect of these individual adjustments and a supervision of the detail in each individual case.

(Page 8735 follows)

Q. What I meant was: I understood this morning, when I asked you why did you want the Canadian Pacific maintained as a private enterprise, the basic reason you gave me was: because of competition, the competition of an energetic private enterprise with the Canadian National Railways?

A. Yes.

Q. Now, I understand you are saying that the Canadian Pacific is not really efficient; that it has foregone an opportunity to raise its rates, that it might have raised with advantage; and that therefore you would leave it to the Board of Transport Commissioners to make a survey to keep up with it. Is that the picture?

A. You are stating it in an extreme form, but yes, it might be; but just because it has not progressed in every respect does not mean that there is competition there.

THE CHAIRMAN: Q. We have been told that the railways have increased these competitive rates.

A. They increased them, but they only did so after they had taken the other process. There was the question of the prices control regulations involved in there; but the other evidence is that when the 20 per cent application came in, the proposal was to increase all rates by 20 per cent, except competitive rates. That was the application, and in a sense it would go back to the old situation again.

MR. O'DONNELL: I do not quite agree with the facts.

As I remember the situation, when the 30 per cent application was made, at or about the same time the railways undertook to increase their competitive rates. It was just about that time.

THE CHAIRMAN: You say that the railways undertook?

MR. O'DONNELL: They endeavoured to do so, but there was strenuous objection from the provinces. So that, until the 30 per cent case was heard and disposed of, the railways were prevented from increasing their competitive rates.

In the order following the judgment, -- you will find an order No. 2 which says:

"Competitive rates below normal rates established to meet motor truck and /or water competition, or other form of competition, may be adjusted within the discretion of the railway companies and the express companies concerned in accordance with the situation existing prior to issue of Order No. 69612, dated October 17, 1947."

THE CHAIRMAN: What order is this?

MR. O'DONNELL: It is on Page 87, My Lord.

I am speaking about things concerning which I have not refreshed my memory for some time; but the objection was made that the railways should not be permitted to raise their competitive rates.

MR. FRAWLEY: You tell them why really.

MR. O'DONNELL: No, you tell them why. I do not remember all the facts.

The situation was: that until the entire picture was looked at, there should not be any increase in competitive rates, notwithstanding the fact that under the Railway Act the railways had been entitled to take them out and put them in, as they chose.

However, the respondents objected, and during the course of the case, the railways were precluded from acting as they were entitled to act.

When the Board rendered this judgment on the 30th of March 1948, it authorized the increase of competitive rates which were below normal rates; and some of them were very considerably higher than 21 per cent plus 15 per cent. Some were raised considerably; and in the 20 per cent judgment, there is a reference to competitive rates in 3, in the order of the 24th of September, 1949, which is to be found on Page 30 of the blue report. There, I read:

"3. Competitive freight rates established to meet motor truck and/or water competition, or other form of competition, may be adjusted within the discretion of the railway companies concerned."

So, until these two orders were issued, notwithstanding the fact that at a certain point the Wartime Prices and Trade Board order 98 terminated, the railways were not able to raise those rates. But, as soon as they could, they acted.

THE CHAIRMAN: Did all the provinces protest against the increasing of competitive rates? Did Ontario for instance?

MR. O'DONNELL: I mean: all who were before the Board.

MR. FRAWLEY: All who were before the Board, on the simple ground that, while the Board, at that time, was considering the whole rate structure of the Canadian Pacific and the Canadian National Railways, they should not be permitted to take out of the general consideration of the Board this one kind of class rate.

We did not argue that they did not have the right to do it. But we said they should not be allowed to do it at that time, when the matter was all sub judice.

But as soon as the Board rendered its judgment, the railways quite properly put these rates up.

We were amazed that the railways should have tried, while the case was then being considered by the Board -- should have tried to increase these competitive rates.

MR. CARSON: From September 1947 until April 1948 -- the application was launched in October 1946 for a 30 per cent increase; and the hearings commenced in February 1947.

At that time price control was in effect. And while it was necessary for us to make our application to the Board of Transport Commissioners, then, with whatever approval they gave, we had to contemplate going to the Prices Board in order to get further approval.

But in September 1947, the moment price control was removed, we filed amending tariffs increasing the competitive rates.

It was then that the provinces -- and I mean those provinces which were before the Board -- made their application to suspend these amending tariffs, and their application was granted, and we were not free to increase those competitive rates until April 1948, as a result of that opposition.

MR. SHEPARD: Q. Now, Mr. Moffat, would you turn to Chapter 9, where you will find the heading:

"Periodic Review of Rate Concessions"

The corresponding page in the mimeographed section is Page 7, while in the printed version it is Page 117.

A. This section, as the heading suggests is a discussion of the recommendation which we are making, that the Board of Transport Commissioners should establish some sort of machinery for a periodic review of any rate concessions which it allows, in order that, from time to time, there will be a check to see whether any

CHAPTER I

The first part of the book is devoted to a general discussion of the principles of the theory of the function of a complex variable. It begins with a definition of a function of a complex variable, and then proceeds to a discussion of the properties of such functions. The author then discusses the concept of a limit, and the concept of a derivative. He then discusses the concept of a contour integral, and the concept of a residue. The chapter concludes with a discussion of the concept of a series.

The second part of the book is devoted to a discussion of the theory of the function of a complex variable. It begins with a discussion of the concept of a function of a complex variable, and then proceeds to a discussion of the properties of such functions. The author then discusses the concept of a limit, and the concept of a derivative. He then discusses the concept of a contour integral, and the concept of a residue. The chapter concludes with a discussion of the concept of a series.

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of those rates are no longer necessary and should be brought back to the general level which applies in other parts of Canada.

The chapter then continues with a discussion of uniform class rates, which would form the basis of the entire rate structure, which is being advocated in this chapter.

Q. I understand it is your intention to read that next section and the one following, right to the end of the chapter?

A. Yes.

THE CHAIRMAN: There are two headings following "Transcontinental rates", "Agreed Charges" and "Mixing Privileges".

THE WITNESS: Yes.

Periodic Review of Rate Concessions.

If these principles are to be applied by the Board of Transport Commissioners, some system is required whereby the Board can maintain a more careful review of these substandard rates. One suggestion to achieve this purpose is that no special rates should be allowed to go into effect without first being scrutinized and approved by the Board of Transport Commissioners. This suggestion was made by several witnesses at the various regional hearings in the West and almost invariably the response of railway counsel was to the effect that this would create such a complicated procedure as to seriously retard the normal processes by which rates are set. The implication was that the administration of rate setting on that basis would be a task of such magnitude as to prevent the railways from being able to use special rates where warranted by special conditions with the speed necessary to get the traffic.

It must be admitted that anyone outside the actual railway field cannot be sufficiently familiar with all aspects of this question and with the details of the administrative practice involved, to be able to offer a final opinion. At the same time it may be suggested that there is a temptation to over-emphasize the magnitude of those administrative problems. Once a procedure is established whereby certain specific tests are applied to each proposal for a lower rate, it should be able to operate quite quickly and to apply such tests to a large volume of business. The railways say that they themselves are applying tests of an essentially similar/^{nature}in these cases. If so they must have an administrative practice which will handle the number of cases which arise. It is our understanding that in practice such matters are handled in substantial measure by the Canadian Freight Association and we can see no reason why the Board of Transport Commissioners could not act as quickly as the Freight Association. If, on the other hand, the railways argue that the present arrangement between the railways and the Freight Association is not applying tests of this type, then that is equivalent to an admission that no adequate criteria are being applied at present.

Railway Counsel have^{found}/the number of tariff changes in recent years very useful in demonstrating the tremendous size of the administrative problem here. But it should be pointed out that the figures of the past few years are not representative of the period before that, nor are they likely to be representative of any fairly normal period in the future. In the first place, there have been in recent years, a large number of general increases, both in the domestic rates

such as the 21 per cent increase, and the 15 per cent increase in competitive rates, and also in the international and related rates in which increases have been applied on each occasion when the United States rates have been increased. Since July 1st, 1946, there have been no less than eight general increases in the United States rates, each of which has had an impact on our international and related rates.

There are two points to which we would like to draw your attention in this regard. In the first place there is little likelihood that changes will occur so frequently year after year in the future. What is more probable is that once the need for general freight rate changes disappears, the numbers of new tariffs which will be filed year by year will be reduced greatly, and with a greater measure of control over the granting of special rates, a further reduction may be expected.

Secondly, the present procedure is such that it tends to magnify the administrative problem. The procedure in these percentage increase cases has been that when an increase of, for example, five per cent, is authorized, the railways issue a new supplement for each of their tariffs dealing with rates in the category covered. The result is that an increase of say five per cent is reflected in the record of the number of tariffs filed by a figure which represents a supplement for each individual tariff concerned. When increases of that sort occur, four or five times during a year, it makes a very impressive list of tariff changes, whereas, in fact, there have only been four or five real changes. It is our view that a much less complicated method of filing these tariff changes could be worked out and it is our further view, and

this view will be elaborated later in the chapter headed "Simplification of Rates and Tariffs", that a new method of issuing tariffs could be worked out which would greatly simplify the interpretation of tariffs so that the public could more readily understand them, and at the same time eliminate a good deal of the problem involved in the great number of tariff changes.

Even after all possible steps to simplify the tariffs and the methods of changing tariffs, it may be that there would still be too many changes to be handled on the basis of a review by the Board of Transport Commissioners in each case, before the tariff becomes effective. We do not believe that would be the situation but if it is, then our suggestion is that the railways should be authorized to introduce tariffs of this type on a temporary basis for a specified period subject to review by the Board in the meantime, and that the Board should establish a procedure for periodic review of tariffs applying the criteria which are appropriate to each. A process of trial and error would make it clear as to what period of leeway was necessary to make such a scheme administratively possible.

It will be obvious that the application of the above principles would result in a much simplified rate structure based on a system of uniform class rates with all other rates subject to the above tests as to their validity. This aspect of the matter is discussed at some length in the chapter on "Simplification of Rates and Tariffs". We propose to devote the remainder of the present chapter to consideration of four specific cases in which the present rate structure does not conform to the above principles.

Uniform Class Rates.

The first such situation is that which exists with

respect to class rates. In Western Canada the largest volume of class rate traffic moves on what are known as distributing class rates. These rates apply on all traffic outbound from certain of the larger cities which have been designated as distributing points on inbound traffic from the smaller centers to the "distributing points" and on traffic between two smaller centers the shipper pays standard mileage rates which are about 17 per cent higher except where some special rate has been introduced to meet a particular competitive situation. These standard mileage rates also apply to the movement northward from the border of a large proportion of the traffic moving in from the United States. For example, farm machinery coming in from the United States pays standard mileage rates from the border to its destination. In Eastern Canada a somewhat similar situation exists except that the "town tariffs" which are the eastern equivalent of the distributing rates, apply both inbound to and outbound from the distributing points. There is the further distinction that in eastern Canada the number of designated "distributing points" is much greater. Furthermore, the standard mileage rates in Western Canada average about 3.6 per cent higher than the standard mileage rates in the east and a corresponding difference exists between the distributing rates and the town tariffs.

It might be well to put the references there into the transcript. Exhibits 324 and 325 in the 21 per cent case were filed to illustrate those differences.

It is the view of the Manitoba Government that these variations in the method of applying class rates cannot be justified in accordance with the criteria

outlined above. In other words, we feel that your Commission should recommend that standard mileage class rates, distributing class rates, and town tariffs should be consolidated into a single uniform basic class rate structure applicable to all parts of Canada and that any deviations from that uniform pattern should be treated as exceptions subject to the tests which have already been suggested.

Obviously, a vital question in this connection is that of the level at which this new standard class rate structure is to be established. We do not have access to the data necessary to make a specific and detailed recommendation in this regard but it seems to be clear that the town tariffs in Eastern Canada move the largest volume of any of the rate groups involved in this suggestion. There would therefore seem to be considerable merit in suggesting that the level of the town tariff rates should be used as the basis of the new uniform rate structure. If that were done it would, of course, mean that the rates would be reduced for the traffic which now moves on standard mileage class rates and on distributing class rates. The resulting loss of revenue to the railways would then be reflected in the general calculation as to the adequacy of railway revenues. Our suggestion therefore is that your Commission should recommend the establishment of a uniform basic class rate structure at the level of the present town tariffs. This does not, however, mean that we advocate the use of the town tariff scale for each mileage. Rather we favour the general level of the town tariffs. In the section dealing with rates as related to distance, we give, in some detail, our criticisms of the rates of taper which are embodied in the present

Eastern standard mileage class rate scale and which underlie the town tariff structure.

We have already expressed our views as to the criteria which should be applied by the Board in deciding whether some rate lower than the normal rate is required in a particular situation.

THE CHAIRMAN: Are there many of these?

A. Many of which?

Q. You say that these criteria should be applied periodically to each such rate. How often does that mean, periodically?

A. That was discussed in the section which I did not read.

Q. I see.

A. It may be that we could go back and read it. I thought we would get through a little faster.

Q. Do you suggest any time, yearly, or what?

A. The suggestion was that they should consider the possibility of checking them all in advance. But if that turned out to be too big an administrative problem, then they should try a check -- I think the suggestion was, every six months; and then, if it was found to be too heavy an administrative problem, it should be varied accordingly.

It is more or less a suggestion of trial and error, to gain some experience as to how much work would be involved in doing it, before there is any suggestion as to how frequently a periodic check should be made.

Q. It applies only to rates which are lower than the long rates?

A. Yes, but there would be a very substantial number.

Q. We sometimes hear a reference to millions of rates. Would that expression apply here, Mr. O'Donnell?

MR. O'DONNELL: There are quite a few of them. I do not know how many million but there are quite a few. They would have plenty of homework, I think, on Mr. Moffat's proposal.

MR. SHEPARD: Will you continue please, Mr. Moffat.

THE CHAIRMAN: Q. Well, it is a practical question: whether it is possible to get this periodic review of all these rates.

A. We make two suggestions in the final chapter.

We make some suggestion as to simplification, which we think would help considerably. And the second suggestion is: that it be on a trial and error basis, to see how big an administrative problem is involved, before there is a firm decision, to see how those rates would have to be examined.

The important point is: that it should not be allowed to carry on indefinitely without a review at all.

We have also stated that we feel that these criteria should be applied periodically by the Board to each such rate for the purpose of discovering whether circumstances have changed in the meantime. In our chapter on "Regional Considerations" we deal at some length with the situation respecting competitive rates in Eastern Canada. There are two other groups of rates to which we would like to call your attention at the present time, namely, the so-called transcontinental rates and the rates provided under the agreed charge provision.

Transcontinental Rates

The matter of transcontinental rates was discussed by Premier Campbell in his brief presented at Winnipeg. There is a lengthy quotation from his

brief which reads as follows:

"I would like to mention the effect which the the rate structure of the railways has had in the formation of the industrial pattern in Canada. We are all familiar with the centralization of industry in the Eastern Provinces, the comparative lack of industrial development in the Prairie Provinces and the fluctuations in the prairie economy resulting from its predominant dependence on one major industry, agriculture. It is our strong conviction that certain features of the freight rates structure have acted in no small way to slow down the development of a potentially large field of industrial activity in the prairies. In particular, the so-called transcontinental rates have, in our view, given Eastern Canada and the Vancouver area an unjustified advantage which is not available to manufacturers and distributors in Winnipeg. The effect of these transcontinental between Eastern Canada and Vancouver is to establish rates for the long haul in either direction at levels which are not materially different from the rates for the shorter haul between Winnipeg and Vancouver or between Winnipeg and Toronto. In fact, in a few cases, between Toronto and Vancouver rates are actually lower than the rates between Toronto and Winnipeg. Whatever may have been the original justification for these rates in terms of competition with water transport through the Panama Canal or with American railways, it

is our view that conditions have now changed to such an extent that the transcontinental rates should be substantially increased if not eliminated entirely. We would not, however, propose that this should be done without a full review of the whole situation and without an opportunity for those interested to express their views to a public body acting under the authority and in the interests of Canada as a whole."

THE CHAIRMAN: Q. This might be a good time for me to inquire: what became of that ship?

MR. FRAWLEY: That famous ship which scared the railways so much.

MR. O'DONNELL: I think it is still running.

MR. BRAZIER: One clears from Montreal next week.

THE CHAIRMAN: Just so long as we are sure it is not a phantom ship.

MR. O'DONNELL: No. I saw several sailings of it advertised.

MR. FRAWLEY: I think that Mr. Brazier goes down at every departure and then runs out to Vancouver to meet it.

MR. O'DONNELL: It is the only way he can hold his rates down.

MR. EVANS: I have been told that there have been four sailings west-bound this year, so far this year.

THE CHAIRMAN: So long as we know it is not the "Flying Dutchman."

THE WITNESS: At the regional hearings in Winnipeg these rates were discussed in general terms in the briefs presented on behalf of the Winnipeg Chamber of Commerce and the Manitoba Federation of Agriculture,

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and their effect on the growth of small industries in Manitoba was illustrated in the case of vegetable oil production by Mr. Friesen of the Altona Vegetable Oil Cooperative and in the case of dry cell batteries by Mr. Parr of Ray-O-Vac Canada Limited.

Since the Winnipeg regional hearing it has come to our attention that action had been instituted by the railways looking toward a substantial increase in the majority of these transcontinental rates. Apparently the intention was that each of these rates should be raised up to the level of the rate charged for shipments from Eastern United States to Seattle. For some reason, which is not clear to us, these proposed increases have not been into effect. In the meantime American rates have been still further increased.

THE CHAIRMAN: What do you mean by saying that ". . . action had been instituted by the railways looking toward a substantial increase in the majority of these transcontinental rates"?

A. I was going to elaborate on that.

This is one of the problems that we on the provincial side, have had in this case; it was to find out what was really happening.

I am certain that I have not been able to discover what has happened to these transcontinental rates.

Q. You say that "action had been instituted".

MR. EVANS: I would be glad to help my friend, Mr. Moffat. Those increases have been put into effect, which he speaks of as not put into effect.

THE WITNESS: I was going to explain the word "instituted".

The first we heard of it was in the form of a mimeographed bulletin put out by the Toronto Chamber of

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Commerce. It came to us more or less by accident; and it was to the effect that something of this sort was being done.

I have never, until this minute, been able to find out what was happening.

MR. EVANS: Q. Did you ask anybody?

A. I asked people in Winnipeg, such as the Secretary of the Chamber of Commerce, who is in touch with the railways, but he could not find out.

MR. O'DONNELL: Our information is that from September 1, 1949, they were put into effect.

THE WITNESS: I am not surprised at all. It is not the first time that we have had difficulty in finding out what the situation was with respect to rates.

MR. EVANS: The tariffs were filed in July, and they became effective on the 1st of September.

THE WITNESS: The justification ordinarily advanced in defence of the Canadian transcontinental rates is that they are necessary to prevent the loss of traffic to water transport from Montreal to Vancouver via Panama. In accordance with the criteria which we have already discussed, we feel that ^{it} is proper for the railways to meet such competition provided that

1. The competition really exists or the threat of competition is real and urgent;
2. The rates charged by the railways are not lower than would be necessary to meet the competition;
3. The rates charged by the railways are sufficient to meet their out-of-pocket costs.

You will notice that 2 and 3 are the same as those suggested by Mr. Walker; and that No. 1 is added in as a point which would have to be decided.

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THE CHAIRMAN: Q. When the ship comes in?

A. When the ship comes in, in the Vancouver case.

COMMISSIONER ANGUS: Q. You exclude potential competition?

A. Well, it is another one of those cases you cannot specifically define. As long as there is real potential competition, I think it would have to be recognized.

These are presumably the same criteria which are followed by the railways of the United States and yet the United States railways have put into effect very substantial increases on their transcontinental rates. It is our view that as a minimum, the Canadian transcontinental rates should be raised up to the level charged by their most serious competitors for that traffic, namely the railways of the Northern United States, and that studies should be instituted to see whether a rate, ^{even} as low as that can be justified.

Q. Justified by the Board of Transport Commissioners?

A. It would have to be by the Board of Transport Commissioners; although it might take the form of a recommendation from this Commission. But certainly the study would not be made by this Commission.

MR. SHEPARD: Q. And the next heading is "Agreed Charges"?

A. Agreed Charges

In 1938 the Transport Act provided that notwithstanding the provisions of the Railway Act, a railway could make agreed charge contracts under which the railway would grant special low rates to any shipper who would agree to give the railways a specified part of his total shipments. This provision was designed to give the railways a weapon to protect themselves against truck competition. The argument was

that under an ordinary competitive rate a shipper could have the advantage of railway transport during the winter when operating conditions are bad and could then use trucks during the good operating season. The railways were to be able to offer a lower rate provided the shipper would agree to use railway facilities on a year-round basis. Quite extensive provisions were included in an attempt to prevent abuse of these arrangements including a provision that the Board can institute a similar rate for any competing shippers who are discriminated against by the agreed charge.

In practice, this system of agreed charges, has led to misunderstandings, and ill-will between groups of shippers and between shippers and the railways. One point is of particular concern to those who have been active in the recent freight rate increase cases, namely the fact that when an additional fifteen per cent increase was applied by the railways to competitive rates, no such increase was applied to agreed charges.

The first submission of ^{the} Manitoba Government on this subject is that your Commission should recommend that agreed charges should be subject to the criteria suggested by Mr. Walker as applicable to competitive rates, namely they should be no lower than is necessary to retain the traffic and no lower than a level which will return to the railway something more than the out-of-pocket cost of the service. Whatever ^{additional} safeguards or special conditions might be required, it is clear that from the point of view of the railways themselves, the minimum level for agreed charges should be determined by the same criteria that apply to competitive rates.

Our second submission in this regard deals with the provision for extending these rates to a competing shipper if the Board finds that he will be unjustly discriminated against if he does not get the rate. To apply this principle in practice, it is necessary that all shippers who might be adversely affected should know about the rate and should be in a position to assess its effect upon them. The Act provides for publication of the agreed charge for the purpose of informing those who are interested, but in practice the result has been that only the larger companies whose business is sufficient to justify them in paying the cost of a traffic specialist can keep themselves informed and adequately assess their position.

THE CHAIRMAN: Why does that situation exist? You see, the Act provides for publication of the agreed charge. Are the provisions for publication not sufficient?

A. They are not sufficient in the sense that certain people do not hear about them. But more important than that, the whole ^{rate} structure is so complicated that, except for a rate specialist, a rate traffic person, no one can assess what the effect of an agreed charge may or may not be on another firm.

And outside of the very largest industries, there are very few organizations who have available to them the service of a person with sufficient training and experience to deal with it. And in addition, the cost factor makes it almost impossible for a smaller organization to either retain such a person, or to secure outside assistance.

Q. Who would go about ascertaining what other shippers might be prejudiced or adversely affected?

You say:

" . . . it is necessary that all shippers who might be adversely affected should know . . ."

A. Our suggestion here is that this agreed charge provision should be changed materially, and that it should be made into a competitive rate situation really and handled in the same way as the competitive rates; that is, to have the rates published and available to everyone without going through this process and applying for the rates.

If the rate is reduced at all, it should be generally applicable, and not restricted to the particular firm which makes the application.

MR. O'DONNELL: I would like to draw attention to the regulations of the Board of Transport Commissioners which provide that the agreed charge, or notice of the application, shall be published in the Canada Gazette, firstly; and then there is a list of eighteen separate Boards of Trade and Chambers of Commerce which are set up in the regulations, and the 19th heading under the regulations is -- but I shall read from the regulations as follows:

"Appendix C of the regulations.

List of individuals or organizations to whom copies of notice (Appendix B), and copies of agreements shall be mailed."

There are eighteen Boards of Trade and Chambers of Commerce, manufacturers' associations and the Transportation Commission of the Maritime Board of Trade, among others.

Under heading 19 is the following provision regarding persons to whom the copies of agreement and the notice shall be mailed:

"19: To such other companies or organizations known to be engaged in the same line of business and whose business is located or operated in the same general territory in which the proposed agreed charge is to operate."

The regulations certainly provide for giving the widest publicity to these agreed charges.

THE CHAIRMAN: Who carries that out?

MR. O'DONNELL: Those are part of the requirements under the Act, and one must establish, to the satisfaction of the Board, that all these things have been done.

THE CHAIRMAN: The railway must establish it?

MR. O'DONNELL: The officers of the Board have the records which would show that these things have been complied with.

THE CHAIRMAN: By the railways?

MR. O'DONNELL: Yes, or by the interested parties.

And as to agreed charges, the Board of Transport Commissioners has to approve each one of them. And one of the essential things they look at is the revenue position of the carrier.

Before any agreed charge can be put into effect, it must have run the gamut of an examination by the Board under the provisions of Part 5 of the Transport Act, which Act says, in section 35, sub-section 13:

"13) On any application under this section, the Board shall have regard to all considerations which appear to it to be relevant and, in particular, to the effect which the making of the agreed charge or the fixing of a charge is likely to have, or has had, on, -- (a) the net revenue of the carrier; and

(b) the business of any shipper by whom or in whose interests objection is made to approval being given to an agreed charge, or application is made for approval to be withdrawn."

That is the very thing this brief purports to deal with, some check or other under the Act as it stands.

At the present time there is ample check, because an agreed charge has no validity until it has been approved, and I submit that the regulations are quite ample at the present time.

THE WITNESS: It is not a question of notice to the interested parties. It is one thing to see a notice in the Canada Gazette. It is another thing to understand it, and it is still a further thing to have some one come down to Ottawa and make a case which will carry through. That is something that small firms just cannot do. They may know about it or they may not.

MR. EVANS: It is just plain nonsense. There are many cases where individuals come in and there is never an objection raised.

THE CHAIRMAN: Do you know of any case of this sort?

A. We have had one example fought out at great length at the Winnipeg hearings, when Mr. O'Donnell and the man from Canadian Oils practically re-argued the hearing.

THE CHAIRMAN: Had the persons who appeared at Winnipeg to protest, already protested to the Board?

A. Oh yes. He was a moderately large firm and he had made a special study of rates for some time. His firm was big enough to get

him technical advice and to pay his expenses to come down here. That is quite different from your smaller or local industries.

Q. But still he was not satisfied?

A. He was not satisfied, no. That was perfectly clear.

But if it is true that the small man, simply by coming down here and making his protest will get concessions, then why should he not get them automatically to begin with?

Why should it be restricted only to the fellow who accidentally happens to hear about it?

Why shouldn't he get it, in the first place, and deal with it just as an ordinary competitive rate?

COMMISSIONERS ANGUS: Q. Are you not comparing a hypothetical small man who has a good case with a big shipper, who has a case which is not so good in the judgment of the Board of Transport Commissioners?

A. I do not know. I do not think so.

MR. EVANS: The position, from the railway point of view, in these cases, will depend upon:

(a) whether there is real discrimination against the person complaining; and

(b) whether he is willing to make the same contract.

If he is not willing to make the same contract, obviously he should not get the same rate.

MR. O'DONNELL: That was the case with a man in Winnipeg.

THE CHAIRMAN: I still think that something should be done about it, and that agreed charges should be abolished altogether.

THE WITNESS: The suggestion is that they should be made subject to the same conditions as competitive rates; particularly, that they should

be made available generally, rather than to be handled as a separate category.

MR. SHEPARD: Q. Very well, Mr. Moffat, will you proceed with your brief?

A. It is the view of the Manitoba Government that it is wrong in principle to provide that a discriminatory rate of this sort can be instituted for a particular shipper and then extended to those who hear about it and protest. Rather, the principle should be that the rate is automatically available to all who ship the same type of goods under substantially similar circumstances.

COMMISSIONER ANGUS: Q. Does "substantially similar circumstances" there mean making a similar agreement, or is it suggested that it should be open to everyone without conditions?

A. I have not thought ahead to the answer of that particular question.

THE CHAIRMAN: Q. You see, the party agreeing agrees to ship all of his products or a specified percentage of them by the railway?

A. Yes.

Q. Now, do you say that because he has done that, anybody else who wishes to ship the same product ought to be able to ship it without being bound to do anything in particular, and being free to ship by truck the next day?

A. The basic principle of the Railway Act always has been that volume was not a factor, and that the man who shipped one car was the same as the man who shipped one thousand cars.

Q. This Act speaks for itself, and it is on the same basis as the Railway Act?

A. That is true, it is of this particular one;

but the idea that everybody should be on an equal footing has been built through the other parts of the Act. It is part of the position we are advocating here.

Q. I think what you are advocating really means that the agreed charges should be abolished.

A. That is what it comes to, very closely.

Q. Then if a shipper wishes to have consideration of a special kind, he should prevail upon the railway to put a competitive rate into operation in that area?

A. Yes.

Q. A request which the railway might or might not accede to. I do not see how else you could get it. If you keep on refining, you lead away all the intention of that statute.

A. Yes, as a practical result.

Q. Because one man by agreeing, himself, to give all his business to the railway, or a specified portion of it to the railway, gets a certain rate; then, all other persons who ship the same commodity should get the same rate?

A. Is not the condition restricted to the same locality?

Q. Whatever it is, the commodity, that is right.

A. Yes.

Q. Apparently you think that these agreed charges should not exist at all?

A. I would hate to go that far. But certainly I think there should be some method worked out to eliminate the fact that they are only available to the bigger firms in practice, and, secondly, to eliminate the fact that they stayed down, when some

other rates went up.

Q. The way, I think, you have it worked out is that the only man who would be bound to do anything in consideration for the lower rate would be the man who made the agreement; and that all other shippers of that commodity would be free.

A. He would, presumably, not be getting anything which he would not get under an ordinary competitive rate anyway.

Q. Then, if you abolished it, you come back to competitive rates.

A. Yes, because, as a minimum rate, it would presumably be set by the same criteria which would be applicable in a competitive rate.

Q. All right.

MR. SHEPARD: I think the Manitoba position does come to what you suggest, Mr. Chairman, namely, that commodities now carried by agreed charges would become carried under competitive rates; and that, by logic, it would necessarily follow that agreed charges should be abolished.

THE WITNESS: The last paragraph practically suggests that same thing.

Q.
MR. SHEPARD: Yes, will you carry on.

A. It may be said in reply to these criticisms that, in fact, they are all provided for in the present legislation and that we are advocating nothing new. If, in fact the agreed charge provisions are applied in the manner which we have advocated, and if the publicity provisions are adequate, then it is our view that in their essential characteristics, agreed charges are simply another form of competitive rate. If so, we can see no advantage in retaining the distinction and we can see real danger that the

retention of the distinction will continue to produce bad feeling in many quarters and real hardship for smaller shippers who either cannot take advantage of agreed charge provisions or can only do so after incurring costs for representation, etc., which are out of proportion to the size of their business.

Q. The next heading, Mr. Moffat, is the section on "mixing privileges". Would you deal with that.

A. Mixing Privileges

The final matter with which we wish to deal in this chapter is that of the difference between the mixing privileges allowed on shipments in Western Canada and in Eastern Canada. This is another matter upon which it is our view that your Commission should recommend that a uniform practice should be established in all parts of Canada. The arguments on both sides of this issue have been presented at considerable length in various submissions at the different regional hearings. It is therefore not necessary to repeat them at this time. One point requires emphasis, however, namely the fact that in past decisions on this matter, the Board of Transport Commissioners has been guided very largely by the views expressed by those who appeared before it. Unfortunately, in an issue of this type appearances before the Board tend to be restricted to the relatively few large organizations who derive benefit from the restricted mixing privilege in Western Canada. On the other hand, the relatively large number of individuals and smaller firms who are adversely affected by the present arrangement are, as in so many other matters, under a severe handicap in making their viewpoints known.

It is our view that if the present Eastern mixing rule were applied throughout Canada, the competitive position of the larger wholesales would not be materially altered whereas there would be some benefits to consumers, and to smaller distributors and manufacturers. At the same time, an important source of irritation and bad feeling would be eliminated. The effect upon railway revenue,, would, in our view, be negligible because at the present time a relatively large proportion of the traffic concerned is already being moved at carload rates although the shippers are paying higher charges. The difference is being absorbed in many cases as the cost of operating forwarding agencies who arrange and handle pool car shipments.

THE CHAIRMAN: If any questions arise out of these paragraphs we can take them up tomorrow morning.

MR. FRAWLEY: I would like to place on the record a citation of the decision of the Board of Transport Commissioners when the provinces applied to suspend these competitive rates in 1947, so that the reasons will be there.

It goes back to the statement of my friends of the Canadian Pacific that we, the provinces, had prevented them from increasing these competitive rates.

THE CHAIRMAN: Where shall I put it, in the Manitoba brief?

MR. FRAWLEY: It might be put in anywhere in the section dealing with competitive rates.

THE CHAIRMAN: What chapter is that?

MR. FRAWLEY: Chapter 9.

THE CHAIRMAN: We are on Chapter 9 now.

MR. FRAWLEY: The case is in Volume 61 Canadian

Railway and Transport Cases.

MR. SHEPARD: I think it came up in a discussion of Pages 117 to 119 of the printed copies, "periodic review of rate concessions".

THE CHAIRMAN: All right, Mr. Frawley.

MR. FRAWLEY: The case is called: "Provinces et al versus Railway Association of Canada." The provinces, except Ontario and Quebec, versus the Railway Association of Canada, and it is reported in 61 C.R.T.C., at Page 65.

MR. EVANS: May I put one thing on the record, because I think it comes in this point?

THE CHAIRMAN: The same point?

MR. EVANS: No, on the point about agreed charges. I wanted to get an example of the opposition by the railways, if I could.

My information is that we have never opposed anyone getting the charge, who would agree to the same terms. And the fact is, that in the lumber agreed charge, we have over 50 firms who have become party to it, who have simply applied and got it.

At 4:45 p.m. the Commission adjourned until 10:30 a.m., Wednesday, November 16, 1949.

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